

A LEGISLATIVE HISTORY OF THE
FISHERY CONSERVATION AND
MANAGEMENT ACT OF 1976

Together With
A SECTION-BY-SECTION INDEX

PREPARED AT THE REQUEST OF
HON. WARREN G. MAGNUSON, *Chairman*
COMMITTEE ON COMMERCE

AND

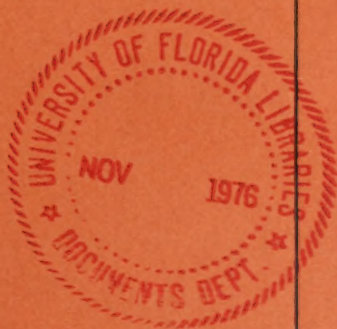
HON. ERNEST F. HOLLINGS, *Chairman*
NATIONAL OCEAN POLICY STUDY
FOR THE USE OF THE
COMMITTEE ON COMMERCE

AND

NATIONAL OCEAN POLICY STUDY



OCTOBER 1976



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LETTER OF TRANSMITTAL

U.S. SENATE,
COMMITTEE ON COMMERCE,
September 27, 1976.

DEAR COLLEAGUE: The recently enacted Fishery Conservation and Management Act of 1976 (Public Law 94-265) must be considered one of the most important pieces of legislation enacted by the 94th Congress. It establishes, for the first time in this Nation's 200-year history, a comprehensive management program for fisheries subject to U.S. jurisdiction. And, of course, this new law expands U.S. fishery management jurisdiction to 200 nautical miles, effective March 1, 1977. The United States now will have paramount control over all fishery resources found off its shores. The need for, and purpose of, this control is to protect and conserve our valuable natural resources, first and foremost.

To assist those who will be implementing and working with this new law, we asked the Ocean and Coastal Resources Project of the Congressional Research Service in the Library of Congress to prepare a detailed legislative history. Mark Zilberberg of the project prepared the history.

As is often the case, many of the important documents relating to the development of this legislation, such as committee reports, are either in limited supply or are out of print. This compilation is intended to bring together all those materials for use by administrators, members of the regional councils created by the new law, lawyers, fishermen, and others who are affected by, or must deal with, this far-reaching statute. We expect that this document will be in great demand. The section-by-section index included herein will enhance its usefulness.

We wish to emphasize that this document compilation has neither been approved, disapproved, nor considered by the Committee on Commerce or the National Ocean Policy Study.

To assure the general availability of this legislative history of Public Law 94-265, we have asked that it be published as a committee print for the use of the members of the Committee on Commerce and National Ocean Policy Study.

Sincerely,

WARREN G. MAGNUSON, *Chairman,*
Committee on Commerce.
ERNEST F. HOLLINGS, *Chairman,*
National Ocean Policy Study.

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CHAPTER I

THE FISHERY CONSERVATION AND MANAGEMENT ACT

[Public Law 94-265, 94th Cong., H.R. 200, Apr. 13, 1976]

AN ACT To provide for the conservation and management of the fisheries, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Fishery Conservation and Management Act of 1976".

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Sec. 2. Findings, purposes and policy

(a) FINDINGS.—The Congress finds and declares the following:

(1) The fish off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf appertaining to the United States, and the anadromous species which spawn in United States rivers or estuaries, constitute valuable and renewable natural resources. These fishery resources contribute to the food supply, economy, and health of the Nation and provide recreational opportunities.

(2) As a consequence of increased fishing pressure and because of the inadequacy of fishery conservation and management practices and controls (A) certain stocks of such fish have been overfished to the point where their survival is threatened, and (B) other such stocks have been so substantially reduced in number that they could become similarly threatened.

(3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade. The activities of massive foreign fishing fleets in waters adjacent to such coastal areas have contributed to such damage, interfered with domestic fishing efforts, and caused destruction of the fishing gear of United States fishermen.

(4) International fishery agreements have not been effective in preventing or terminating the overfishing of these valuable fishery resources. There is danger that irreversible effects from overfishing will take place before an effective international agreement on fishery management jurisdiction can be negotiated, signed, ratified, and implemented.

(5) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be conserved and maintained so as to provide optimum yields on a continuing basis.

(6) A national program for the conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, and to realize the full potential of the Nation's fishery resources.

(7) A national program for the development of fisheries which are underutilized or not utilized by United States fishermen, including bottom fish off Alaska, is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.

(b) PURPOSES.—It is therefore declared to be the purposes of the Congress in this Act—

(1) to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by establishing (A) a fishery conservation zone within which the United States will assume exclusive fishery management authority over all fish, except highly migratory species, and (B) exclusive fishery management authority beyond

such zone over such anadromous species and Continental Shelf fishery resources;

(2) to support and encourage the implementation and enforcement of international fishery agreements for the conservation and management of highly migratory species, and to encourage the negotiation and implementation of additional such agreements as necessary;

(3) to promote domestic commercial and recreational fishing under sound conservation and management principles;

(4) to provide for the preparation and implementation, in accordance with national standards, of fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery;

(5) to establish Regional Fishery Management Councils to prepare, monitor, and revise such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which take into account the social and economic needs of the States; and

(6) to encourage the development of fisheries which are currently underutilized or not utilized by United States fishermen, including bottom fish of Alaska.

(e) **POLICY.**—It is further declared to be the policy of the Congress in this Act—

(1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the conservation and management of fishery resources, as provided for in this Act;

(2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, except as necessary for the conservation and management of fishery resources, as provided for in this Act;

(3) to assure that the national fishery conservation and management program utilizes, and is based upon, the best scientific information available; involves, and is responsive to the needs of, interested and affected States and citizens; promotes efficiency; draws upon Federal, State, and academic capabilities in carrying out research, administration, management, and enforcement; and is workable and effective;

(4) to permit foreign fishing consistent with the provisions of this Act; and

(5) to support and encourage continued active United States efforts to obtain an internationally acceptable treaty, at the Third United Nations Conference on the Law of the Sea, which provides for effective conservation and management of fishery resources.

Sec. 3. Definitions

As used in this Act, unless the context otherwise requires—

(1) The term “anadromous species” means species of fish which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters.

(2) The term “conservation and management” refers to all of the rules, regulations, conditions, methods, and other measures

(A) which are required to rebuild, restore, or maintain, and which are useful in rebuilding, restoring, or maintaining, any fishery resource and the marine environment; and (B) which are designed to assure that—

(i) a supply of food and other products may be taken, and that recreational benefits may be obtained, on a continuing basis;

(ii) irreversible or long-term adverse effects on fishery resources and the marine environment are avoided; and

(iii) there will be a multiplicity of options available with respect to future uses of these resources.

(3) The term "Continental Shelf" means the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, of the United States, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas.

(4) The term "Continental Shelf fishery resources" means the following:

COLEENTERATA

Bamboo Coral—*Acanella* spp.;
 Black Coral—*Antipathes* spp.;
 Gold Coral—*Callogorgia* spp.;
 Precious Red Coral—*Corallium* spp.;
 Bamboo Coral—*Keratoisis* spp.; and
 Gold Coral—*Parazoanthus* spp.

CRUSTACEA

Tanner Crab—*Chionoecetes tanneri*;
 Tanner Crab—*Chionoecetes opilio*;
 Tanner Crab—*Chionoecetes angulatus*;
 Tanner Crab—*Chionoecetes bairdi*;
 King Crab—*Paralithodes caetschatica*;
 King Crab—*Paralithodes platypus*;
 King Crab—*Paralithodes brevipes*;
 Lobster—*Homarus americanus*;
 Dungeness Crab—*Cancer magister*;
 California King Crab—*Paralithodes californiensis*;
 California King Crab—*Paralithodes rathbuni*;
 Golden King Crab—*Lithodes aequispinus*;
 Northern Stone Crab—*Lithodes maja*;
 Stone Crab—*Menippe mercenaria*; and
 Deep-sea Red Crab—*Geryon quinquedens*.

MOLLUSKS

Red Abalone—*Haliotis rufescens*;
 Pink Abalone—*Haliotis corrugata*;
 Japanese Abalone—*Haliotis kamtschatkana*;
 Queen Conch—*Strombus gigas*;
 Surf Clam—*Spisula solidissima*; and
 Ocean Quahog—*Artica islandica*.

SPONGES

Glove Sponge—*Hippiospongia canaliculata*;
 Sheepswood Sponge—*Hippiospongia lachne*;
 Grass Sponge—*Spongia graminea*; and
 Yellow Sponge—*Spongia barbara*.

If the Secretary determines, after consultation with the Secretary of State, that living organisms of any other sedentary species are, at the harvestable stage, either—

(A) immobile on or under the seabed, or

(B) unable to move except in constant physical contact with the seabed or subsoil.

of the Continental Shelf which appertains to the United States, and publishes notice of such determination in the Federal Register, such sedentary species shall be considered to be added to the foregoing list and included in such term for purposes of this Act.

(5) The term "Council" means any Regional Fishery Management Council established under section 302.

(6) The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals, birds, and highly migratory species.

(7) The term "fishery" means—

(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and

(B) any fishing for such stocks.

(8) The term "fishery conservation zone" means the fishery conservation zone established by section 101.

(9) The term "fishery resource" means any fishery, any stock of fish, any species of fish, and any habitat of fish.

(10) The term "fishery" means—

(A) the catching, taking, or harvesting of fish;

(B) the attempted catching, taking, or harvesting of fish;

(C) any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

Such term does not include any scientific research activity which is conducted by a scientific research vessel.

(11) The term "fishing vessel" means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for—

(A) fishing; or

(B) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

(12) The term "foreign fishing" means fishing by a vessel other than a vessel of the United States.

(13) The term "high seas" means all waters beyond the territorial sea of the United States and beyond any foreign nation's

territorial sea, to the extent that such sea is recognized by the United States.

(14) The term "highly migratory species" means species of tuna which, in the course of their life cycle, spawn and migrate over great distances in waters of the ocean.

(15) The term "international fishery agreement" means any bilateral or multilateral treaty, convention, or agreement which relates to fishing and to which the United States is a party.

(16) The term "Marine Fisheries Commission" means the Atlantic States Marine Fisheries Commission, the Gulf States Marine Fisheries Commission, or the Pacific Marine Fisheries Commission.

(17) The term "national standards" means the national standards for fishery conservation and management set forth in section 301.

(18) The term "optimum", with respect to the yield from a fishery, means the amount of fish—

(A) which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities; and

(B) which is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social, or ecological factor.

(19) The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(20) The term "Secretary" means the Secretary of Commerce or his designee.

(21) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States.

(22) The term "stock of fish" means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.

(23) The term "treaty" means any international fishery agreement which is a treaty within the meaning of section 2 of article II of the Constitution.

(24) The term "United States", when used in a geographical context, means all the States thereof.

(25) The term "vessel of the United States" means any vessel documented under the laws of the United States or registered under the laws of any State.

TITLE I—FISHERY MANAGEMENT AUTHORITY OF THE UNITED STATES

Sec. 101. Fishery conservation zone

There is established a zone contiguous to the territorial sea of the United States to be known as the fishery conservation zone. The inner

boundary of the fishery conservation zone is a line coterminous with the seaward boundary of each of the coastal States, and the outer boundary of such zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

Sec. 102. Exclusive management authority

The United States shall exercise exclusive fishery management authority, in the manner provided for in this Act, over the following:

- (1) All fish within the fishery conservation zone.
- (2) All anadromous species throughout the migratory range of each such species beyond the fishery conservation zone; except that such management authority shall not extend to such species during the time they are found within any foreign nation's territorial sea or fishery conservation zone (or the equivalent), to the extent that such sea or zone is recognized by the United States.
- (3) All Continental Shelf fishery resources beyond the fishery conservation zone.

Sec. 103. Highly migratory species

The exclusive fishery management authority of the United States shall not include, nor shall it be construed to extend to, highly migratory species of fish.

Sec. 104. Effective date

This title shall take effect March 1, 1977.

TITLE II—FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS

Sec. 201. Foreign fishing

(a) **IN GENERAL.**—After February 28, 1977, no foreign fishing is authorized within the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond the fishery conservation zone, unless such foreign fishing—

- (1) is authorized under subsection (b) or (c);
- (2) is not prohibited by subsection (f); and
- (3) is conducted under, and in accordance with, a valid and applicable permit issued pursuant to section 204.

(b) **EXISTING INTERNATIONAL FISHERY AGREEMENTS.**—Foreign fishing described in subsection (a) may be conducted pursuant to an international fishery agreement (subject to the provisions of section 202(b) or (c)), if such agreement—

- (1) was in effect on the date of enactment of this Act; and
- (2) has not expired, been renegotiated, or otherwise ceased to be of force and effect with respect to the United States.

(c) **GOVERNING INTERNATIONAL FISHERY AGREEMENTS.**—Foreign fishing described in subsection (a) may be conducted pursuant to an international fishery agreement (other than a treaty) which meets the requirements of this subsection if such agreement becomes effective after application of section 203. Any such international fishery agreement shall hereafter in this Act be referred to as a "governing international fishery agreement". Each governing international fishery

agreement shall acknowledge the exclusive fishery management authority of the United States, as set forth in this Act. It is the sense of the Congress that each such agreement shall include a binding commitment, on the part of such foreign nation and its fishery vessels, to comply with the following terms and conditions;

(1) The foreign nation, and the owner or operator of any fishing vessel fishing pursuant to such agreement, will abide by all regulations promulgated by the Secretary pursuant to this Act, including any regulations promulgated to implement any applicable fishery management plan or any preliminary fishery management plan.

(2) The foreign nation, and the owner or operator of any fishing vessel fishing pursuant to such agreement, will abide by the requirement that—

(A) any officer authorized to enforce the provisions of this Act (as provided for in section 311) be permitted—

(i) to board, and search or inspect, any such vessel at any time,

(ii) to make arrests and seizures provided for in section 311(b) whenever such officer has reasonable cause to believe, as a result of such a search or inspection, that any such vessel or any person has committed an act prohibited by section 307, and

(iii) to examine and make notations on the permit issued pursuant to section 204 for such vessel;

(B) the permit issued for any such vessel pursuant to section 204 be prominently displayed in the wheelhouse of such vessel;

(C) transponders, or such other appropriate position-fixing and identification equipment as the Secretary of the department in which the Coast Guard is operating determines to be appropriate, be installed and maintained in working order on each such vessel;

(D) duly authorized United States observers be permitted on board any such vessel and that the United States be reimbursed for the cost of such observers;

(E) any fees required under section 204(b)(10) be paid in advance;

(F) agents be appointed and maintained within the United States who are authorized to receive and respond to any legal process issued in the United States with respect to such owner or operator; and

(G) responsibility be assumed, in accordance with any requirements prescribed by the Secretary, for the reimbursement of United States citizens for any loss of, or damage to, their fishing vessels, fishing gear, or catch which is caused by any fishing vessel of that nation;

and will abide by any other monitoring, compliance, or enforcement requirement related to fishery conservation and management which is included in such agreement.

(3) The foreign nation and the owners or operators of all of the fishing vessels of such nation shall not, in any year, exceed such

nation's allocation of the total allowable level of foreign fishing, as determined under subsection (e).

(4) The foreign nation will—

(A) apply, pursuant to section 204, for any required permits;

(B) deliver promptly to the owner or operator of the appropriate fishing vessel any permit which is issued under that section for such vessel; and

(C) abide by, and take appropriate steps under its own laws to assure that all such owners and operators comply with, section 204(a) and the applicable conditions and restrictions established under section 204(b) (7).

(d) **TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.**—The total allowable level of foreign fishing, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States, shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States, as determined in accordance with the provisions of this Act.

(e) **ALLOCATION OF ALLOWABLE LEVEL.**—The Secretary of State, in cooperation with the Secretary, shall determine the allocation among foreign nations of the total allowable level of foreign fishing which is permitted with respect to any fishery subject to the exclusive fishery management authority of the United States. In making any such determinations, the Secretary of State and the Secretary shall consider—

(1) whether, and to what extent, the fishing vessels of such nations have traditionally engaged in fishing in such fishery;

(2) whether such nations have cooperated with the United States in, and made substantial contributions to, fishery research and the identification of fishery resources;

(3) whether such nations have cooperated with the United States in enforcement and with respect to the conservation and management of fishery resources; and

(4) such other matters as the Secretary of State, in cooperation with the Secretary, deems appropriate.

(f) **RECIPROCITY.**—Foreign fishing shall not be authorized for the fishing vessels of any foreign nation unless such nation satisfies the Secretary and the Secretary of State that such nation extends substantially the same fishing privileges to fishing vessels of the United States, if any, as the United States extends to foreign fishing vessels.

(g) **PRELIMINARY FISHERY MANAGEMENT PLANS.**—The Secretary, when notified by the Secretary of State that any foreign nation has submitted an application under section 204(b), shall prepare a preliminary fishery management plan for any fishery covered by such application if the Secretary determines that no fishery management plan for that fishery will be prepared and implemented, pursuant to title III, before March 1, 1977. To the extent practicable, each such plan—

(1) shall contain a preliminary description of the fishery and a preliminary determination as to the optimum yield from such fishery and the total allowable level of foreign fishing with respect to such fishery;

(2) shall require each foreign fishing vessel engaged or wishing to engage in such fishery to obtain a permit from the Secretary;

(3) shall require the submission of pertinent data to the Secretary, with respect to such fishery, as described in section 303(a)(5); and

(4) may, to the extent necessary to prevent irreversible effects from overfishing, with respect to such fishery, contain conservation and management measures applicable to foreign fishing which—

(A) are determined to be necessary and appropriate for the conservation and management of such fishery,

(B) are consistent with the national standards, the other provisions of this Act, and other applicable law, and

(C) are described in section 303(b)(2), (3), (4), (5), and (7).

Each preliminary fishery management plan shall be in effect with respect to foreign fishing for which permits have been issued until a fishery management plan is prepared and implemented, pursuant to title III, with respect to such fishery. The Secretary may, in accordance with section 553 of title 5, United States Code, also prepare and promulgate interim regulations with respect to any such preliminary plan. Such regulations shall be in effect until regulations implementing the applicable fishery management plan are promulgated pursuant to section 305.

Sec. 202. International fishery agreements

(a) **NEGOTIATIONS.**—The Secretary of State—

(1) shall renegotiate treaties as provided for in subsection (b);

(2) shall negotiate governing international fishery agreements described in section 201(c);

(3) may negotiate boundary agreements as provided for in subsection (d);

(4) shall, upon the request of and in cooperation with the Secretary, initiate and conduct negotiations for the purpose of entering into international fishery agreements—

(A) which allow fishing vessels of the United States equitable access to fish over which foreign nations assert exclusive fishery management authority, and

(B) which provide for the conservation and management of anadromous species and highly migratory species; and

(5) may enter into such other negotiations, not prohibited by subsection (c), as may be necessary and appropriate to further the purposes, policy, and provisions of this Act.

(b) **TREATY RENEGOTIATION.**—The Secretary of State, in cooperation with the Secretary, shall initiate, promptly after the date of enactment of this Act, the renegotiation of any treaty which pertains to fishing within the fishery conservation zone (or within the area that will constitute such zone after February 28, 1977), or for anadromous species or Continental Shelf fishery resources beyond such zone or area, and which is in any manner inconsistent with the purposes, policy, or provisions of this Act, in order to conform such treaty

to such purposes, policy, and provisions. It is the sense of Congress that the United States shall withdraw from any such treaty, in accordance with its provisions, if such treaty is not so renegotiated within a reasonable period of time after such date of enactment.

(c) **INTERNATIONAL FISHERY AGREEMENTS.**—No international fishery agreement (other than a treaty) which pertains to foreign fishing within the fishery conservation zone (or within the area that will constitute such zone after February 28, 1977), or for anadromous species or Continental Shelf fishery resources beyond such zone or area—

(1) which is in effect on June 1, 1976, may thereafter be renewed, extended, or amended; or

(2) may be entered into after May 31, 1976;

by the United States unless it is in accordance with the provisions of section 201 (c).

(d) **BOUNDARY NEGOTIATIONS.**—The Secretary of State, in cooperation with the Secretary, may initiate and conduct negotiations with any adjacent or opposite foreign nation to establish the boundaries of the fishery conservation zone of the United States in relation to any such nation.

(e) **NONRECOGNITION.**—It is the sense of the Congress that the United States Government shall not recognize the claim of any foreign nation to a fishery conservation zone (or the equivalent) beyond such nation's territorial sea, to the extent that such sea is recognized by the United States, if such nation—

(1) fails to consider and take into account traditional fishing activity of fishing vessels of the United States;

(2) fails to recognize and accept that highly migratory species are to be managed by applicable international fishery agreements, whether or not such nation is a party to any such agreement; or

(3) imposes on fishing vessels of the United States any conditions or restrictions which are unrelated to fishery conservation and management.

Sec. 203. Congressional oversight of governing international fishery agreements

(a) **IN GENERAL.**—No governing international fishery agreement shall become effective with respect to the United States before the close of the first 60 calendar days of continuous session of the Congress after the date on which the President transmits to the House of Representatives and to the Senate a document setting forth the text of such governing international fishery agreement. A copy of the document shall be delivered to each House of Congress on the same day and shall be delivered to the Clerk of the House of Representatives, if the House is not in session, and to the Secretary of the Senate, if the Senate is not in session.

(b) **REFERRAL TO COMMITTEES.**—Any document described in subsection (a) shall be immediately referred in the House of Representatives to the Committee on Merchant Marine and Fisheries, and in the Senate to the Committees on Commerce and Foreign Relations.

(c) **COMPUTATION OF 60-DAY PERIOD.**—For purposes of subsection (a)—

(1) continuity of session is broken only by an adjournment of Congress *sine die*; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

(d) CONGRESSIONAL PROCEDURES.—

(1) RULES OF THE HOUSE OF REPRESENTATIVES AND SENATE.—The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of fishery agreement resolutions described in paragraph (2), and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) as any time, and in the same manner and to the same extent as in the case of any other rule of that House.

(2) DEFINITION.—For purposes of this subsection, the term “fishery agreement resolution” refers to a joint resolution of either House of Congress—

(A) the effect of which is to prohibit the entering into force and effect of any governing international fishery agreement the text of which is transmitted to the Congress pursuant to subsection (a); and

(B) which is reported from the Committee on Merchant Marine and Fisheries of the House of Representatives or the Committee on Commerce or the Committee on Foreign Relations of the Senate, not later than 45 days after the date on which the document described in subsection (a) relating to that agreement is transmitted to the Congress.

(3) PLACEMENT ON CALENDAR.—Any fishery agreement resolution upon being reported shall immediately be placed on the appropriate calendar.

(4) FLOOR CONSIDERATION IN THE HOUSE.—

(A) A motion in the House of Representatives to proceed to the consideration of any fishery agreement resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on any fishery agreement resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit any fishery agreement resolution or to move to reconsider the vote by which any fishery agreement resolution is agreed to or disagreed to.

(C) Motions to postpone, made in the House of Representatives with respect to the consideration of any fishery agree-

ment resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any fishery agreement resolution shall be decided without debate.

(E) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any fishery agreement resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(5) FLOOR CONSIDERATION IN THE SENATE.—

(A) A motion in the Senate to proceed to the consideration of any fishery agreement resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on any fishery agreement resolution and on all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with any fishery agreement resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover of the motion or appeal and the manager of the resolution, except that if the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. The majority leader and the minority leader, or either or them, may allot additional time to any Senator during the consideration of any debatable motion or appeal, from time under their control with respect to the applicable fishery agreement resolution.

(D) A motion in the Senate to further limit debate is not debatable. A motion to recommit any fishery agreement resolution is not in order.

Sec. 204. Permits for foreign fishing

(a) IN GENERAL.—After February 28, 1977, no foreign fishing vessel shall engage in fishing within the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond such zone, unless such vessel has on board a valid permit issued under this section for such vessel.

(b) APPLICATIONS AND PERMITS UNDER GOVERNING INTERNATIONAL FISHERY AGREEMENTS.—

(1) ELIGIBILITY.—Each foreign nation with which the United States has entered into a governing international fishery agreement shall submit an application to the Secretary of State each year for a permit for each of its fishing vessels that wishes to engage in fishing described in subsection (a).

(2) FORMS.—The Secretary, in consultation with the Secretary of State and the Secretary of the department in which the Coast

Guard is operating, shall prescribe the forms for permit applications submitted under this subsection and for permits issued pursuant to any such application.

(3) **CONTENTS.**—Any application made under this subsection shall specify—

(A) the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner thereof;

(B) the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other pertinent information with respect to characteristics of each such vessel as the Secretary may require;

(C) each fishery in which each such vessel wishes to fish;

(D) the amount of fish or tonnage of catch contemplated for each such vessel during the time such permit is in force; and

(E) the ocean area in which, and the season or period during which, such fishing will be conducted; and shall include any other pertinent information and material which the Secretary may require.

(4) **TRANSMITTAL FOR ACTION.**—Upon receipt of any application which complies with the requirements of paragraph (3), the Secretary of State shall publish such application in the Federal Register and shall promptly transmit—

(A) such application, together with his comments and recommendations thereon, to the Secretary;

(B) a copy of the application to each appropriate Council and to the Secretary of the department in which the Coast Guard is operating; and

(C) a copy of such material to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committees on Commerce and Foreign Relations of the Senate.

(5) **ACTION BY COUNCIL.**—After receipt of an application transmitted under paragraph (4) (B), each appropriate Council shall prepare and submit to the Secretary such written comments on the application as it deems appropriate. Such comments shall be submitted within 45 days after the date on which the application is received by the Council and may include recommendations with respect to approval of the application and, if approval is recommended, with respect to appropriate conditions and restrictions thereon. Any interested person may submit comments to such Council with respect to any such application. The Council shall consider any such comments in formulating its submission to the Secretary.

(6) **APPROVAL.**—After receipt of any application transmitted under paragraph (4) (A), the Secretary shall consult with the Secretary of State and, with respect to enforcement, with the Secretary of the department in which the Coast Guard is operating. The Secretary, after taking into consideration the views and recommendations of such Secretaries, and any comments submitted by any Council under paragraph (5), may approve the applica-

tion, if he determines that the fishing described in the application will meet the requirements of this Act.

(7) **ESTABLISHMENT OF CONDITIONS AND RESTRICTIONS.**—The Secretary shall establish conditions and restrictions which shall be included in such permit issued pursuant to any application approved under paragraph (6) and which must be complied with by the owner or operator of the fishing vessel for which the permit is issued. Such conditions and restrictions shall include the following:

(A) All of the requirements of any applicable fishery management plan, or preliminary fishery management plan, and the regulations promulgated to implement any such plan.

(B) The requirement that no permit may be used by any vessel other than the fishing vessel for which it is issued.

(C) The requirements described in section 201(c) (1), (2), and (3).

(D) Any other condition and restriction related to fishery conservation and management which the Secretary prescribes as necessary and appropriate.

(8) **NOTICE OF APPROVAL.**—The Secretary shall promptly transmit a copy of each application approved under paragraph (6) and the conditions and restrictions established under paragraph (7) to—

(A) the Secretary of State for transmittal to the foreign nation involved;

(B) the Secretary of the department in which the Coast Guard is operating;

(C) any Council which has authority over any fishery specified in such application; and

(D) the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committees on Commerce and Foreign Relations of the Senate.

(9) **DISAPPROVAL OF APPLICATIONS.**—If the Secretary does not approve any application submitted by a foreign nation under that subsection, he shall promptly inform the Secretary of State of the disapproval and his reasons therefore. The Secretary of State shall notify such foreign nation of the disapproval and the reasons therefor. Such foreign nation, after taking into consideration the reasons for disapproval, may submit a revised application under this subsection.

(10) **FEES.**—Reasonable fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection. The Secretary, in consultation with the Secretary of State, shall establish and publish a schedule of such fees, which shall apply nondiscriminatorily to each foreign nation. In determining the level of such fees, the Secretary may take into account the cost of carrying out the provisions of this Act with respect to foreign fishing, including, but not limited to, the cost of fishery conservation and management, fisheries research, administration, and enforcement.

(11) **ISSUANCE OF PERMITS.**—If a foreign nation notifies the Secretary of State of its acceptance of the conditions and restrictions established by the Secretary under paragraph (7), the Sec-

retary of State shall promptly transmit such notification to the Secretary. Upon payment of the applicable fees established pursuant to paragraph (10), the Secretary shall thereupon issue to such foreign nation, through the Secretary of State, permits for the appropriate fishing vessels of that nation. Each permit shall contain a statement of all conditions and restrictions established under paragraph (7) which apply to the fishing vessel for which the permit is issued.

(12) **SANCTIONS.**—If any foreign fishing vessel for which a permit has been issued pursuant to this subsection has been used in the commission of any act prohibited by section 307 the Secretary may, or if any civil penalty imposed under section 308 or any criminal fine imposed under section 309 has not been paid and is overdue the Secretary shall—

(A) revoke such permit, with or without prejudice to the right of the foreign nation involved to obtain a permit for such vessel in any subsequent year;

(B) suspend such permit for the period of time deemed appropriate; or

(C) impose additional conditions and restrictions on the approved application of the foreign nation involved and on any permit issued under such application.

Any permit which is suspended under this paragraph for non-payment of a civil penalty shall be reinstated by the Secretary upon the payment of such civil penalty together with interest thereon at the prevailing rate.

(c) **REGISTRATION PERMITS.**—The Secretary of State, in cooperation with the Secretary, shall issue annually a registration permit for each fishing vessel of a foreign nation which is a party to an international fishery agreement under which foreign fishing is authorized by section 201(b) and which wishes to engage in fishing described in subsection (a). Each such permit shall set forth the terms and conditions contained in the agreement that apply with respect to such fishing, and shall include the additional requirement that the owner or operator of the fishing vessel for which the permit is issued shall prominently display such permit in the wheelhouse of such vessel and show it, upon request, to any officer authorized to enforce the provisions of this Act (as provided for in section 311). The Secretary of State, after consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form and manner in which applications for registration permits may be made, and the forms of such permits. The Secretary of State may establish, require the payment of, and collect fees for registration permits; except that the level of such fees shall not exceed the administrative cost incurred by him in issuing such permits.

Sec. 205. Import prohibitions

(a) **DETERMINATIONS BY SECRETARY OF STATE.**—If the Secretary of State determines that—

(1) he has been unable, within a reasonable period of time, to conclude with any foreign nation an international fishery agreement allowing fishing vessels of the United States equitable

access to fisheries over which that nation asserts exclusive fishery management authority, as recognized by the United States, in accordance with traditional fishing activities of such vessels, if any, and under terms not more restrictive than those established under sections 201 (c) and (d) and 204 (b) (7), and (10), because such nation has (A) refused to commence negotiations, or (B) failed to negotiate in good faith;

(2) any foreign nation is not allowing fishing vessels of the United States to engage in fishing for highly migratory species in accordance with an applicable international fishery agreement, whether or not such nation is a party thereto;

(3) any foreign nation is not complying with its obligations under any existing international fishery agreement concerning fishing by fishing vessels of the United States in any fishery over which that nation asserts exclusive fishery management authority; or

(4) any fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, is seized by any foreign nation—

(A) in violation of an applicable international fishery agreement;

(B) without authorization under an agreement between the United States and such nation; or

(C) as a consequence of a claim of jurisdiction which is not recognized by the United States;

he shall certify such determination to the Secretary of the Treasury.

(b) PROHIBITIONS.—Upon receipt of any certification from the Secretary of State under subsection (a), the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the United States—

(1) of all fish and fish products from the fishery involved, if any; and

(2) upon recommendation of the Secretary of State, such other fish or fish products, from any fishery of the foreign nation concerned, which the Secretary of State finds to be appropriate to carry out the purposes of this section.

(c) REMOVAL OF PROHIBITION.—If the Secretary of State finds that the reasons for the imposition of any import prohibition under this section no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove such import prohibition.

(d) DEFINITIONS.—As used in this section—

(1) The term “fish” includes any highly migratory species.

(2) The term “fish products” means any article which is produced from or composed of (in whole or in part) any fish.

TITLE III—NATIONAL FISHERY MANAGEMENT PROGRAM

Sec. 301. National standards for fishery conservation and management

(a) IN GENERAL.—Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to this

title shall be consistent with the following national standards for fishery conservation and management;

(1) Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.

(2) Conservation and management measures shall be based upon the best scientific information available.

(3) To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

(4) Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(5) Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

(6) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

(7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

(b) **GUIDELINES.**—The Secretary shall establish guidelines, based on the national standards, to assist in the development of fishery management plans.

Sec. 302. Regional fishery management councils

(a) **ESTABLISHMENT.**—There shall be established, within 120 days after the date of the enactment of this Act, eight Regional Fishery Management Councils, as follows:

(1) **NEW ENGLAND COUNCIL.**—The New England Fishery Management Council shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut and shall have authority over the fisheries in the Atlantic Ocean seaward of such States. The New England Council shall have 17 voting members, including 11 appointed by the Secretary pursuant to subsection (b)(1)(C) (at least one of whom shall be appointed from each such State).

(2) **MID-ATLANTIC COUNCIL.**—The Mid-Atlantic Fishery Management Council shall consist of the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, and Virginia and shall have authority over the fisheries in the Atlantic Ocean seaward of such States. The Mid-Atlantic Council shall have 19 voting members, including 12 appointed by the Secretary pursuant to subsection (b)(1)(C) (at least one of whom shall be appointed from each such State).

(3) **SOUTH ATLANTIC COUNCIL.**—The South Atlantic Fishery Management Council shall consist of the States of North Carolina,

South Carolina, Georgia, and Florida and shall have authority over the fisheries in the Atlantic Ocean seaward of such States. The South Atlantic Council shall have 13 voting members, including 8 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(4) **CARIBBEAN COUNCIL.**—The Caribbean Fishery Management Council shall consist of the Virgin Islands and the Commonwealth of Puerto Rico and shall have authority over the fisheries in the Caribbean Sea and Atlantic Ocean seaward of such States. The Caribbean Council shall have 7 voting members, including 4 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(5) **GULF COUNCIL.**—The Gulf of Mexico Fishery Management Council shall consist of the States of Texas, Louisiana, Mississippi, Alabama, and Florida and shall have authority over the fisheries in the Gulf of Mexico seaward of such States. The Gulf Council shall have 17 voting members, including 11 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(6) **PACIFIC COUNCIL.**—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 13 voting members, including 8 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(7) **NORTH PACIFIC COUNCIL.**—The North Pacific Fishery Management Council shall consist of the States of Alaska, Washington, and Oregon and shall have authority over the fisheries in the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska. The North Pacific Council shall have 11 voting members, including 7 appointed by the Secretary pursuant to subsection (b) (1) (C) (5 of whom shall be appointed from the State of Alaska and 2 of whom shall be appointed from the State of Washington).

(8) **WESTERN PACIFIC COUNCIL.**—The Western Pacific Fishery Management Council shall consist of the State of Hawaii, American Samoa, and Guam and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Western Pacific Council shall have 11 voting members, including 7 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

Each Council shall reflect the expertise and interest of the several constituent States in the ocean area over which such Council is granted authority.

(b) **VOTING MEMBERS.**—(1) The voting members of each Council shall be:

(A) The principal State official with marine fishery management responsibility and expertise in each constituent State, who is designated as such by the Governor of the State, so long as the official continues to hold such position, or the designee of such official.

(B) The regional director of the National Marine Fisheries Service for the geographic area concerned, or his designee, except that if two such directors are within such geographical area, the Secretary shall designate which of such directors shall be the voting member.

(C) The members required to be appointed by the Secretary shall be appointed by the Secretary from a list of qualified individuals submitted by the Governor of each applicable constituent State. With respect to the initial such appointments, such Governors shall submit such lists to the Secretary as soon as practicable, not later than 45 days after the date of the enactment of this Act. As used in this subparagraph, (i) the term "list of qualified individuals" shall include the names (including pertinent biographical data) of not less than three such individuals for each applicable vacancy, and (ii) the term "qualified individual" means an individual who is knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest, of the fishery resources of the geographical area concerned.

(2) Each voting member appointed to a Council pursuant to paragraph (1)(C) shall serve for a term of 3 years; except that, with respect to the members initially so appointed, the Secretary shall designate up to one-third thereof to serve for a term of 1 year, up to one-third thereof to serve for a term of 2 years, and the remaining such members to serve for a term of 3 years.

(3) Successors to the voting members of any Council shall be appointed in the same manner as the original voting members. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.

(c) **NONVOTING MEMBERS.**—(1) The nonvoting members of each Council shall be:

(A) The regional or area director of the United States Fish and Wildlife Service for the geographical area concerned, or his designee.

(B) The commander of the Coast Guard district for the geographical area concerned, or his designee; except that, if two Coast Guard districts are within such geographical area, the commander designated for such purpose by the commandant of the Coast Guard.

(C) The executive director of the Marine Fisheries Commission for the geographical area concerned, if any, or his designee.

(D) One representative of the Department of State designated for such purpose by the Secretary of State, or his designee.

(2) The Pacific Council shall have one additional nonvoting member who shall be appointed by, and serve at the pleasure of, the Governor of Alaska.

(d) **COMPENSATION AND EXPENSES.**—The voting members of each Council, who are not employed by the Federal Government or any State or local government, shall receive compensation at the daily rate for GS-18 of the General Schedule when engaged in the actual performance of duties for such Council. The voting members of each Council, any nonvoting member described in subsection (c) (1) (C),

and the nonvoting member appointed pursuant to subsection (c) (2) shall be reimbursed for actual expenses incurred in the performance of such duties.

(e) TRANSACTION OF BUSINESS.—

(1) A majority of the voting members of any Council shall constitute a quorum, but one or more such members designated by the Council may hold hearings. All decisions of any Council shall be by majority vote of the voting members present and voting.

(2) The voting members of each Council shall select a Chairman for such Council from among the voting members.

(3) Each Council shall meet in the geographical area concerned at the call of the Chairman or upon the request of a majority of its voting members.

(4) If any voting member of a Council disagrees with respect to any matter which is transmitted to the Secretary by such Council, such member may submit a statement to the Secretary setting forth the reasons for such disagreement.

(f) STAFF AND ADMINISTRATION.—

(1) Each Council may appoint, and assign duties to, an executive director and such other full- and part-time administrative employees as the Secretary determines are necessary to the performance of its functions.

(2) Upon the request of any Council, and after consultation with the Secretary, the head of any Federal agency is authorized to detail to such Council, on a reimbursable basis, any of the personnel of such agency, to assist such Council in the performance of its functions under this Act.

(3) The Secretary shall provide to each Council such administrative and technical support services as are necessary for the effective functioning of such Council.

(4) The Administrator of General Services shall furnish each Council with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(5) The Secretary and the Secretary of State shall furnish each Council with relevant information concerning foreign fishing and international fishery agreements.

(6) Each Council shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, in accordance with such uniform standards as are prescribed by the Secretary. Each Council shall publish and make available to the public a statement of its organization, practices, and procedures.

(7) The Secretary shall pay—

(A) the compensation and expenses provided for in subsection (d);

(B) appropriate compensation to employees appointed under paragraph (1);

(C) the amounts required for reimbursement of other Federal agencies under paragraphs (2) and (4);

(D) the actual expenses of the members of the committees and panels established under subsection (g); and

(E) such other costs as the Secretary determines are necessary to the performance of the functions of the Councils.

(g) COMMITTEES AND PANELS.—

(1) Each Council shall establish and maintain, and appoint the members of, a scientific and statistical committee to assist it in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.

(2) Each Council shall establish such other advisory panels as are necessary or appropriate to assist it in carrying out its functions under this Act.

(h) FUNCTIONS.—Each Council shall, in accordance with the provisions of this Act—

(1) prepare and submit to the Secretary a fishery management plan with respect to each fishery within its geographical area of authority and, from time to time, such amendments to each such plan as are necessary;

(2) prepare comments on any application for foreign fishing transmitted to it under section 204(b) (4) (B), and any fishery management plan or amendment transmitted to it under section 304(c) (2);

(3) conduct public hearings at appropriate times and in appropriate locations in the geographical area concerned, so as to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments to such plans, and with respect to the administration and implementation of the provisions of this Act;

(4) submit to the Secretary—

(A) a report, before February 1 of each year, on the Council's activities during the immediately preceding calendar year,

(B) such periodic reports as the Council deems appropriate, and

(C) any other relevant report which may be requested by the Secretary;

(5) review on a continuing basis, and revise as appropriate, the assessments and specifications made pursuant to section 303(a) (3) and (4) with respect to the optimum yield from, and the total allowable level of foreign fishing in each fishery within its geographical area of authority; and

(6) conduct any other activities which are required by, or provided for in, this Act or which are necessary and appropriate to the foregoing functions.

Sec. 303. Contents of fishery management plans

(a) REQUIRED PROVISIONS.—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—

(A) necessary and appropriate for the conservation and management of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interests in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify—

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3), and

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing; and

(5) specify the pertinent data which shall be submitted to the Secretary with respect to the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, and number of hauls.

(b) **DISCRETIONARY PROVISIONS.**—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

(1) require a permit to be obtained from, and fees to be paid to, the Secretary with respect to any fishing vessel of the United States fishing, or wishing to fish, in the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond such zone;

(2) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(3) establish specified limitations on the catch of fish (based on areas, species, size, number, weight, **sex**, **incidental catch**, **total biomass**, or other factors), which are necessary and appropriate for the conservation and management of the fishery;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the

relevant fishery conservation and management measures of the coastal States nearest to the fishery;

(6) establish a system for limiting access to the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

(A) present participation in the fishery,

(B) historical fishing practices in, and dependence on, the fishery,

(C) the economics of the fishery,

(D) the capability of fishing vessels used in the fishery to engage in other fisheries,

(E) the cultural and social framework relevant to the fishery, and

(F) any other relevant considerations; and

(7) prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

(c) **PROPOSED REGULATIONS.**—Any Council may prepare any proposed regulations which it deems necessary and appropriate to carry out any fishery management plan, or any amendment to any fishery management plan, which is prepared by it. Such proposed regulations shall be submitted to the Secretary, together with such plan or amendment, for action by the Secretary pursuant to sections 304 and 305.

(d) **CONFIDENTIALITY OF STATISTICS.**—Any statistics submitted to the Secretary by any person in compliance with any requirement under subsection (a) (5) shall be confidential and shall not be disclosed except when required under court order. The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary may release or make public any such statistics in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such statistics.

Sec. 304. Action by the Secretary

(a) **ACTION BY THE SECRETARY AFTER RECEIPT OF PLAN.**—Within 60 days after the Secretary receives any fishery management plan, or any amendment to any such plan, which is prepared by any Council, the Secretary shall—

(1) review such plan or amendment pursuant to subsection (b); and

(2) notify such Council in writing of his approval, disapproval, or partial disapproval of such plan or amendment.

In the case of disapproval or partial disapproval, the Secretary shall include in such notification a statement and explanation of the Secretary's objections and the reasons therefor, suggestions for improvement, a request to such Council to change such plan or amendment to satisfy the objections, and a request to resubmit the plan or amendment, as so modified, to the Secretary within 45 days after the date on which the Council receives such notification.

(b) **REVIEW BY THE SECRETARY.**—The Secretary shall review any fishery management plan, and any amendment, to any such plan, prepared by any Council and submitted to him to determine whether

it is consistent with the national standards, the other provisions of this Act, and any other applicable law. In carrying out such review, the Secretary shall consult with—

(1) the Secretary of State with respect to foreign fishing; and

(2) the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

(c) **PREPARATION BY THE SECRETARY.**—(1) The Secretary may prepare a fishery management plan, with respect to any fishery, or any amendment to any such plan, in accordance with the national standards, the other provisions of this Act, and any other applicable law, if—

(A) the appropriate Council fails to develop and submit to the Secretary, after a reasonable period of time, a fishery management plan for such fishery, or any necessary amendment to such a plan, if such fishery requires conservation and management; or

(B) the Secretary disapproves or partially disapproves any such plan or amendment, and the Council involved fails to change such plan or amendment in accordance with the notification made under subsection (a) (2).

In preparing any such plan or amendment, the Secretary shall consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

(2) Whichever, pursuant to paragraph (1), the Secretary prepares a fishery management plan or amendment, the Secretary shall promptly transmit such plan or amendment to the appropriate Council for consideration and comment. Within 45 days after the date of receipt of such plan or amendment, the appropriate Council may recommend, to the Secretary, changes in such plan or amendment, consistent with the national standards, the other provision of this Act, and any other applicable law. After the expiration of such 45-day period, the Secretary may implement such plan or amendment pursuant to section 305.

(3) Notwithstanding paragraph (1), the Secretary may not include in any fishery management plan, or any amendment to any such plan, prepared by him, a provision establishing a limited access system described in section 303(b)(6), unless such system is first approved by a majority of the voting members, present and voting, of each appropriate Council.

(d) **ESTABLISHMENT OF FEES.**—The Secretary shall by regulation establish the level of any fees which are authorized to be charged pursuant to section 303(b)(1). Such level shall not exceed the administrative costs incurred by the Secretary in issuing such permits.

(e) **FISHERIES RESEARCH.**—The Secretary shall initiate and maintain a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management, including, but not limited to, biological research concerning the interdependence of fisheries or stocks of fish, the impact of pollution on fish, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

(f) MISCELLANEOUS DUTIES.—(1) If any fishery extends beyond the geographical area of authority of any one Council, the Secretary may—

(A) designate which Council shall prepare the fishery management plan for such fishery and any amendment to such plan; or

(B) may require that the plan and amendment be prepared jointly by the Councils concerned.

No jointly prepared plan or amendment may be submitted to the Secretary unless it is approved by a majority of the voting members, present and voting, of each Council concerned.

(2) The Secretary shall establish the boundaries between the geographical areas of authority of adjacent Councils.

Sec. 305. Implementation of fishery management plans

(a) IN GENERAL.—As soon as practicable after the Secretary—

(1) approves, pursuant to section 304 (a) and (b), any fishery management plan or amendment; or

(2) prepares, pursuant to section 304(c), any fishery management plan or amendment;

the Secretary shall publish in the Federal Register (A) such plan or amendment, and (B) any regulations which he proposes to promulgate to implement such plan or amendment. Interested persons shall be afforded a period of not less than 45 days after such publication within which to submit in writing data, views, or comments on the plan or amendment, and on the proposed regulations.

(b) HEARING.—The Secretary may schedule a hearing, in accordance with section 553 of title 5, United States Code, on any fishery management plan, any amendment to any such plan, and any regulations to implement any such plan or amendment. If any such hearing is scheduled, the Secretary may, pending its outcome—

(A) postpone the effective date of the regulations proposed to implement such plan or amendment; or

(B) take such other action as he deems appropriate to preserve the rights or status of any person.

(c) IMPLEMENTATION.—The Secretary shall promulgate regulations to implement any fishery management plan or any amendment to any such plan—

(1) after consideration of all relevant matters—

(A) presented to him during the 45-day period referred to in subsection (a), and

(B) produced in any hearing held under subsection (b); and

(2) if he finds that the plan or amendment is consistent with the national standards, the other provisions of this Act, and any other applicable law.

To the extent practicable, such regulations shall be put into effect in a manner which does not disrupt the regular fishing season for any fishery.

(d) JUDICIAL REVIEW.—Regulations promulgated by the Secretary under this Act shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a petition for such review is filed within 30 days after the

date on which the regulations are promulgated; except that (1) section 705 of such title is not applicable, and (2) the appropriate court shall only set aside any such regulation on a ground specified in section 706(2) (A), (B), (C), or (D) of such title.

(c) **EMERGENCY ACTIONS.**—If the Secretary finds that an emergency involving any fishery resources exists, he may—

(1) promulgate emergency regulations, without regard to subsections (a) and (c), to implement any fishery management plan, if such emergency so requires; or

(2) promulgate emergency regulations to amend any regulation which implements any existing fishery management plan, to the extent required by such emergency.

Any emergency regulation which changes any existing fishery management plan shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation promulgated under this subsection (A) shall be published in the Federal Register together with the reasons therefor; (B) shall remain in effect for not more than 45 days after the date of such publication, except that any such regulation may be repromulgated for one additional period of not more than 45 days; and (C) may be terminated by the Secretary at any earlier date by publication in the Federal Register of a notice of termination.

(f) **ANNUAL REPORT.**—The Secretary shall report to the Congress and the President, not later than March 1 of each year, on all activities of the Councils and the Secretary with respect to fishery management plans, regulations to implement such plans, and all other activities relating to the conservation and management of fishery resources that were undertaken under this Act during the preceding calendar year.

(g) **RESPONSIBILITY OF THE SECRETARY.**—The Secretary shall have general responsibility to carry out any fishery management plan or amendment approved or prepared by him, in accordance with the provisions of this Act. The Secretary may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to discharge such responsibility or to carry out any other provision of this Act.

Sec. 306. State jurisdiction

(a) **IN GENERAL.**—Except as provided in subsection (b), nothing in this Act shall be construed as extending or diminishing the jurisdiction or authority of any State within its boundaries. No State may directly or indirectly regulate any fishing which is engaged in by any fishing vessel outside its boundaries, unless such vessel is registered under the laws of such State.

(b) **EXCEPTION.**—(1) If the Secretary finds, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that—

(A) the fishing in a fishery, which is covered by a fishery management plan implemented under this Act, is engaged in predominately within the fishery conservation zone and beyond such zone; and

(B) any State has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of such fishery management plan;

the Secretary shall promptly notify such State and the appropriate Council of such finding and of his intention to regulate the applicable fishery within the boundaries of such State (other than its internal waters), pursuant to such fishery management plan and the regulations promulgated to implement such plan.

(2) If the Secretary, pursuant to this subsection, assumes responsibility for the regulation of any fishery, the State involved may at any time thereafter apply to the Secretary for reinstatement of its authority over such fishery. If the Secretary finds that the reasons for which he assumed such regulation no longer prevail, he shall promptly terminate such regulation.

Sec. 307. Prohibited acts

It is unlawful—

(1) for any person—

(A) to violate any provision of this Act or any regulation or permit issued pursuant to this Act;

(B) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, of an applicable permit issued pursuant to this Act;

(C) to violate any provision of, or regulation under, an applicable governing international fishery agreement entered into pursuant to section 201(c);

(D) to refuse to permit any officer authorized to enforce the provisions of this Act (as provided for in section 311) to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act or any regulation, permit, or agreement referred to in subparagraph (A) or (C);

(E) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in subparagraph (D);

(F) to resist a lawful arrest for any act prohibited by this section;

(G) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or agreement referred to in subparagraph (A) or (C); or

(H) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section; and

(2) for any vessel other than a vessel of the United States, and for the owner or operator of any vessel other than a vessel of the United States, to engage in fishing—

(A) within the boundaries of any State; or

(B) within the fishery conservation zone, or for any anadromous species or Continental Shelf fishery resources beyond such zone, unless such fishing is authorized by, and conducted in accordance with, a valid and applicable permit issued pursuant to section 204 (b) or (c).

Sec. 308. Civil penalties

(a) **ASSESSMENT OF PENALTY.**—Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 307 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(b) **REVIEW OF CIVIL PENALTY.**—Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(c) **ACTION UPON FAILURE TO PAY ASSESSMENT.**—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) **COMPROMISE OR OTHER ACTION BY SECRETARY.**—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

Sec. 309. Criminal offenses

(a) **OFFENSES.**—A person is guilty of an offense if he commits any act prohibited by—

- (1) section 307(1) (D), (E), (F), or (H); or
- (2) section 307(2).

(b) **PUNISHMENT.**—Any offense described in subsection (a)(1) is punishable by a fine of not more than \$50,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this Act (as provided for in section 311), or places any such officer in fear of imminent bodily injury, the offense is punishable by a fine of not more than \$100,000, or imprisonment for not more than 10 years, or both. Any offense described in subsection (a)(2) is punishable by a fine of not more than \$100,000, or imprisonment for not more than 1 year, or both.

(c) **JURISDICTION.**—There is Federal jurisdiction over any offense described in this section.

Sec. 310. Civil forfeitures

(a) **IN GENERAL.**—Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 307 (other than any act for which the issuance of a citation under section 311(c) is sufficient sanction) shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) **JURISDICTION OF COURTS.**—Any district court of the United States which has jurisdiction under section 311(d) shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) **JUDGMENT.**—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this Act or for which security has not previously been obtained under subsection (d). The provisions of the customs laws relating to—

- (1) the disposition of forfeited property,
- (2) the proceeds from the sale of forfeited property,
- (3) the remission or mitigation of forfeitures, and
- (4) the compromise of claims,

shall apply to any forfeiture ordered, and to any case in which forfeiture is alleged to be authorized, under this section, unless such provisions are inconsistent with the purposes, policy, and provisions of this Act. The duties and powers imposed upon the Commissioner of Customs or other persons under such provisions shall, with respect to this Act, be performed by officers or other persons designated for such purpose by the Secretary.

(d) **PROCEDURE.**—(1) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 311 (d) shall—

- (A) stay the execution of such process; or
- (B) discharge any fish seized pursuant to such process;

upon the receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person (i) delivering such property to the appropriate court upon order thereof, without any impairment of its value, or (ii) paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any fish seized pursuant to this Act may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) **REBUTTABLE PRESUMPTION.**—For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel which is seized in connection with an act prohibited by section 307 were taken or retained in violation of this Act.

Sec. 311. Enforcement

(a) **RESPONSIBILITY.**—The provisions of this Act shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall report semiannually, to each committee of the Congress listed in section 203(b) and to the Councils, on the degree and extent of known and estimated compliance with the provisions of this Act.

(b) **POWERS OF AUTHORIZED OFFICERS.**—Any officer who is authorized (by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with such Secretaries under subsection (a)) to enforce the provisions of this Act may—

(1) with or without a warrant or other process—

(A) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 307;

(B) board, and search or inspect, any fishing vessel which is subject to the provision of this Act;

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this Act;

(D) seize any fish (wherever found) taken or retained in violation of any provision of this Act; and

(E) seize any other evidence related to any violation of any provision of this Act;

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(c) **ISSUANCE OF CITATIONS.**—If any officer authorized to enforce the provisions of this Act (as provided for in this section) finds that a fishing vessel is operating or has been operated in violation of any provision of this Act, such officer may, in accordance with regulations issued jointly by the Secretary and the Secretary of the department in which the Coast Guard is operating, issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (b). If a permit has been issued pursuant to this Act for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(d) **JURISDICTION OF COURTS.**—The district courts of the United States shall have exclusive jurisdiction over any case or controversy

arising under the provisions of this Act. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii. Any such court may, at any time—

- (1) enter restraining orders or prohibitions;
 - (2) issue warrants, process in rem, or other process;
 - (3) prescribe and accept satisfactory bonds or other security; and
 - (4) take such other actions as are in the interest of justice.
- (e) **DEFINITION.**—For purposes of this section—

(1) The term “provisions of this Act” includes (A) any regulation or permit issued pursuant to this Act, and (B) any provision of, or regulation issued pursuant to, any international fishery agreement under which foreign fishing is authorized by section 201 (b) or (c), with respect to fishing subject to the exclusive fishery management authority of the United States.

(2) The term “violation of any provision of this Act” includes (A) the commission of any act prohibited by section 307, and (B) the violation of any regulation, permit, or agreement referred to in paragraph (1).

Sec. 312. Effective date of certain provisions

Sections 307, 308, 309, 310, and 311 shall take effect March 1, 1977.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Effect on Law of the Sea Treaty

If the United States ratifies a comprehensive treaty, which includes provisions with respect to fishery conservation and management jurisdiction, resulting from any United Nations Conference on the Law of the Sea, the Secretary, after consultation with the Secretary of State, may promulgate any amendment to the regulations promulgated under this Act if such amendment is necessary and appropriate to conform such regulations to the provisions of such treaty, in anticipation of the date when such treaty shall come into force and effect for, or otherwise be applicable to, the United States.

Sec. 402. Repeals

(a) The Act of October 14, 1966 (16 U.S.C. 1091–1094), is repealed as of March 1, 1977.

(b) The Act of May 20, 1964 (16 U.S.C. 1081–1086), is repealed as of March 1, 1977.

Sec. 403. Fishermen’s Protective Act Amendments

(a) **AMENDMENTS.**—The Act of August 27, 1954 (22 U.S.C. 1972), is amended—

(1) by amending section 2 thereof to read as follows:

“SEC. 2. If—

“(1) any vessel of the United States is seized by a foreign country on the basis of claims in territorial waters or the high seas which are not recognized by the United States; or

“(2) any general claim of any foreign country to exclusive fishery management authority is recognized by the United States, and any vessel of the United States is seized by such foreign country on the basis of conditions and restrictions under such claim, if such conditions and restrictions—

“(A) are unrelated to fishery conservation and management,

“(B) fail to consider and take into account traditional fishing practices of vessels of the United States,

“(C) are greater or more onerous than the conditions and restrictions which the United States applies to foreign fishing vessels subject to the exclusive fishery management authority of the United States (as established in title I of the Fishery Conservation and Management Act of 1976), or

“(D) fail to allow fishing vessels of the United States equitable access to fish subject to such country's exclusive fishery management authority;

and there is no dispute as to the material facts with respect to the location or activity of such vessel at the time of such seizure, the Secretary of State shall immediately take such steps as are necessary—

“(i) for the protection of such vessel and for the health and welfare of its crew;

“(ii) to secure the release of such vessel and its crew; and

“(iii) to determine the amount of any fine, license, fee, registration fee, or other direct charge reimbursable under section 3(a) of this Act;” and

(2) by amending section 3(a) thereof by inserting immediately before the last sentence thereof the following new sentence: “For purposes of this section, the term ‘other direct charge’ means any levy, however characterized or computed (including, but not limited to, any computation based on the value of a vessel or the value of fish or other property on board a vessel), which is imposed in addition to any fine, license fee, or registration fee.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) (1) shall take effect March 1, 1977. The amendment made by subsection (a) (2) shall apply with respect to seizures of vessels of the United States occurring on or after December 31, 1974.

Sec. 404. Marine Mammal Protection Act Amendment

(a) **AMENDMENT.**—Section 3(15) (B) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(15) (B)) is amended by striking out “the fisheries zone established pursuant to the Act of October 14, 1966,” and inserting in lieu thereof “the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect March 1, 1977.

Sec. 405. Atlantic Tunas Convention Act Amendment

(a) AMENDMENT.—Section 2(4) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971(4)) is amended by striking out “the fisheries zone established pursuant to the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091–1094),” and inserting in lieu thereof “the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect March 1, 1977.

Sec. 406. Authorization of appropriations

There are authorized to be appropriated to the Secretary, for purposes of carrying out the provisions of this Act, not to exceed the following sums:

- (1) \$5,000,000 for the fiscal year ending June 30, 1976.
- (2) \$5,000,000 for the transitional fiscal quarter ending September 30, 1976.
- (3) \$25,000,000 for the fiscal year ending September 30, 1977.
- (4) \$30,000,000 for the fiscal year ending September 30, 1978.

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT UPON SIGNING H.R. 200 INTO LAW

I am today signing a bill which provides a comprehensive domestic and international program for the conservation and management of our fisheries.

The extension of our jurisdiction to 200 miles will enable us to protect and conserve the valuable fisheries off our coasts. It is indeed unfortunate that the slow pace of the negotiations of the United Nations Law of the Sea Conference has mandated our course of action here today. However, the foreign overfishing off our coasts cannot be allowed to continue without resolution.

The need for a timely and successful Law of the Sea Conference is even more pressing today than ever before. I have directed our negotiators to make every effort, consistent with our basic interests, to conclude the substantive negotiations this year. The bill I sign today is generally consistent with the consensus emerging at the Conference. It is increasingly apparent that a failure to reach substantive agreement this year will move the world community inevitably toward disorder respecting competing use of the oceans. In the absence of a timely treaty, no nation can be assured that its paramount interest in the oceans will be protected.

Some specific aspects of this legislation require comment. I supported this legislation on the condition that the effective date of the legislation would be delayed so that the Law of the Sea Conference could complete its work and to permit sufficient time for a proper transition.

The tasks of continuing our negotiating efforts at the Law of the Sea Conference and at the same time establishing new fishery plans,

issuing hundreds of new fishing permits and negotiating specific fishery agreements with foreign governments will require substantial resources in excess of those presently allocated to international fisheries affairs. The Departments of State, Commerce, and Transportation must do their best to implement the act fully. Since available resources are finite, however, it is possible that full implementation may take more time than is provided in the act.

I am concerned about our ability to fulfill the tasks in the time and manner provided in the act. I am particularly anxious that no action be taken which would compromise our commitment to protect the freedom of navigation and the welfare of our distant water fisheries. Surely we would not wish to see the United States engaged in international disputes because of an absence of needed flexibility.

Additionally, I am concerned about four specific problem areas which are raised by this legislation:

First, absent affirmative action, the subject bill could raise serious impediments for the United States in meeting its obligations under existing treaty and agreement obligations;

Second, the bill contemplates unilateral enforcement of a prohibition on foreign fishing, for native anadromous species, such as salmon, seaward of the 200-mile zone. Enforcement of such a provision, absent bilateral or multilateral agreement, would be contrary to the sound precepts of international jurisprudence;

Third, the enforcement provisions of H.R. 200 dealing with the seizure of unauthorized fishing vessels, lack adequate assurances of reciprocity in keeping with the tenets of international law; and

Fourth, the measure purports to encroach upon the exclusive province of the Executive relative to matters under international negotiations.

Although these matters are of major importance, I am hopeful they can be resolved by responsible administrative action and, if necessary, by curative legislation. Accordingly, I am instructing the Secretary of State to lead Administration efforts toward their effective resolution.

GERALD R. FORD.

CHAPTER II

94TH CONGRESS }
2d Session

SENATE

} REPORT
No. 94-711

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

MARCH 24, 1976.—Ordered to be printed

Mr. MAGNUSON, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 200]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 200), to provide for the conservation and management of the fisheries, and for other purposes, having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act, with the following table of contents, may be cited as the "Fishery Conservation and Management Act of 1976".

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Sec. 2. Findings, purposes, and policy

(a) *FINDINGS.*—The Congress finds and declares the following:

(1) *The fish off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf appertaining to the United States, and the anadromous species which spawn in United States rivers or estuaries, constitute valuable and renewable natural resources. These fishery resources contribute to the food supply, economy, and health of the Nation and provide recreational opportunities.*

(2) *As a consequence of increased fishing pressure and because of the inadequacy of fishery conservation and management practices and controls (A) certain stocks of such fish have been overfished to the point where their survival is threatened, and (B) other such stocks have been so substantially reduced in number that they could become similarly threatened.*

(3) *Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economics have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade. The activities of massive foreign fishing fleets in waters adjacent to such coastal areas have contributed to such damage, interfered with domestic fishing efforts, and caused destruction of the fishing gear of United States fishermen.*

(4) *International fishery agreements have not been effective in preventing or terminating the overfishing of these valuable fishery resources. There is danger that irreversible effects from overfishing will take place before an effective international agreement on fishery management jurisdiction can be negotiated, signed, ratified, and implemented.*

(5) *Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be conserved and maintained so as to provide optimum yields on a continuing basis.*

(6) *A national program for the conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, and to realize the full potential of the Nation's fishery resources.*

(7) *A national program for the development of fisheries which are underutilized or not utilized by United States fishermen, including bottom fish off Alaska, is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.*

(b) **PURPOSES.**—*It is therefore declared to be the purposes of the Congress in this Act—*

(1) *to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by establishing (A) a fishery conservation zone within which the United States will assume exclusive fishery management authority over all fish, except highly migratory species, and (B) exclusive fishery management authority beyond such zone over such anadromous species and Continental Shelf fishery resources;*

(2) *to support and encourage the implementation and enforcement of international fishery agreements for the conservation and management of highly migratory species, and to encourage the negotiation and implementation of additional such agreements as necessary;*

(3) *to promote domestic commercial and recreational fishing under sound conservation and management principles;*

(4) *to provide for the preparation and implementation, in accordance with national standards, of fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery;*

(5) *to establish Regional Fishery Management Councils to prepare, monitor, and revise such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which take into account the social and economic needs of the States; and*

(6) *to encourage the development of fisheries which are currently underutilized or not utilized by United States fishermen, including bottom fish off Alaska.*

(c) **POLICY.**—*It is further declared to be the policy of the Congress in this Act—*

(1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the conservation and management of fishery resources, as provided for in this Act;

(2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, except as necessary for the conservation and management of fishery resources, as provided for in this Act;

(3) to assure that the national fishery conservation and management program utilizes, and is based upon, the best scientific information available; involves, and is responsive to the needs of, interested and affected States and citizens; promotes efficiency; draws upon Federal, State, and academic capabilities in carrying out research, administration, management, and enforcement; and is workable and effective;

(4) to permit foreign fishing consistent with the provisions of this Act; and

(5) to support and encourage continued active United States efforts to obtain an internationally acceptable treaty, at the Third United Nations Conference on the Law of the Seas, which provides for effective conservation and management of fishery resources.

Sec. 3. Definitions

As used in this Act, unless the context otherwise requires—

(1) The term "anadromous species" means species of fish which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters.

(2) The term "conservation and management" refers to all of the rules, regulations, conditions, methods, and other measures (A) which are required to rebuild, restore, or maintain, and which are useful in rebuilding, restoring, or maintaining, any fishery resource and the marine environment; and (B) which are designed to assure that—

(i) a supply of food and other products may be taken, and that recreational benefits may be obtained, on a continuing basis;

(ii) irreversible or long-term adverse effects on fishery resources and the marine environment are avoided; and

(iii) there will be a multiplicity of options available with respect to future uses of these resources.

(3) The term "Continental Shelf" means the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, of the United States, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas.

(4) The term "Continental Shelf fishery resources" means the following:

COLENTERATA

Bamboo Coral—*Acanella* spp.;

Black Coral—*Antipathes* spp.;

Gold Coral—*Collogorgia* spp.;
 Precious Red Coral—*Corallium* spp.;
 Bamboo Coral—*Keratoisis* spp.; and
 Gold Coral—*Parazoanthus* spp.

CRUSTACEA

Tanner Crab—*Chionoecetes tanneri*;
 Tanner Crab—*Chionoecetes opilio*;
 Tanner Crab—*Chionoecetes angulatus*;
 Tanner Crab—*Chionoecetes Bairdi*;
 King Crab—*Paralithodes camtschatica*;
 King Crab—*Paralithodes platypus*;
 King Crab—*Paralithodes brevipes*;
 Lobster—*Homarus americanus*;
 Dungeness Crab—*Cancer magister*;
 California King Crab—*Paralithodes californiensis*;
 California King Crab—*Paralithodes rathbuni*;
 Golden King Crab—*Lithodes aequispinus*;
 Northern Stone Crab—*Lithodes maja*;
 Stone Crab—*Menippe mercenaria*; and
 Deep-sea Red Crab—*Geryon quinquedens*.

MOLLUSKS

Red Abalone—*Haliotis rufescens*;
 Pink Abalone—*Haliotis corrugata*;
 Pink Abalone—*Haliotis kamtschatkana*;
 Queen Conch—*Strombus gigas*;
 Surf Clam—*Spisula solidissima*; and
 Ocean Quahog—*Artrica islandica*.

SPONGES

Glove Sponge—*Hippiospongia canaliculata*;
 Sheepswool Sponge—*Hippiospongia lachne*;
 Grass Sponge—*Spongia graminea*; and
 Yellow Sponge—*Spongia barbera*.

If the Secretary determines, after consultation with the Secretary of State, that living organisms of any other sedentary species are, at the harvestable stage, either—

(A) immobile on or under the seabed, or

(B) unable to move except in constant physical contact with the seabed or subsoil,

of the Continental Shelf which appertains to the United States, and publishes notice of such determination in the Federal Register, such sedentary species shall be considered to be added to the foregoing list and included in such terms for purposes of this Act.

(5) The term "Council" means any Regional Fishery Management Council established under section 302

(6) The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals, birds, and highly migratory species.

(7) The term "fishery" means—

(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and

(B) any fishing for such stocks.

(8) The term "fishery conservation zone" means the fishery conservation zone established by section 101.

(9) The term "fishery resource" means any fishery, any stock of fish, any species of fish, and any habitat of fish.

(10) The term "fishing" means—

(A) the catching, taking, or harvesting of fish;

(B) the attempted catching, taking, or harvesting of fish;

(C) any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

Such term does not include any scientific research activity which is conducted by a scientific research vessel.

(11) The term "fishing vessel" means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for—

(A) fishing; or

(B) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

(12) The term "foreign fishing" means fishing by a vessel other than a vessel of the United States.

(13) The term "high seas" means all waters beyond the territorial sea of the United States and beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States.

(14) The term "highly migratory species" means species of tuna which, in the course of their life cycle, spawn and migrate over great distances in waters of the ocean.

(15) The term "international fishery agreement" means any bilateral or multilateral treaty, convention, or agreement which relates to fishing and to which the United States is a party.

(16) The term "Marine Fisheries Commission" means the Atlantic States Marine Fisheries Commission, the Gulf States Marine Fisheries Commission, or the Pacific Marine Fisheries Commission.

(17) The term "national standards" means the national standards for fishery conservation and management set forth in section 301.

(18) The term "optimum", with respect to the yield from a fishery, means the amount of fish—

(A) which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities; and

(B) which is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social, or ecological factor.

(19) The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(20) The term "Secretary" means the Secretary of Commerce or his designee.

(21) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States.

(22) The term "stock of fish" means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.

(23) The term "treaty" means any international fishery agreement which is a treaty within the meaning of section 2 of article II of the Constitution.

(24) The term "United States", when used in a geographical context, means all the States thereof.

(25) The term "vessel of the United States", means any vessel documented under the laws of the United States or registered under the laws of any State.

TITLE I—FISHERY MANAGEMENT AUTHORITY OF THE UNITED STATES

Sec. 101. Fishery conservation zone

There is established a zone contiguous to the territorial sea of the United States to be known as the fishery conservation zone. The inner boundary of the fishery conservation zone is a line coterminous with the seaward boundary of each of the coastal States, and the outer boundary of such zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

Sec. 102. Exclusive fishery management authority

The United States shall exercise exclusive fishery management authority, in the manner provided for in this Act, over the following:

(1) All fish within the fishery conservation zone.

(2) All anadromous species throughout the migratory range of each such species beyond the fishery conservation zone; except that such management authority shall not extend to such species during the time they are found within any foreign nation's territorial sea or fishery conservation zone (or the equivalent), to the extent that such sea or zone is recognized by the United States.

(3) All Continental Shelf fishery resources beyond the fishery conservation zone.

Sec. 103. Highly migratory species

The exclusive fishery management authority of the United States shall not include, nor shall it be construed to extend to, highly migratory species of fish.

Sec. 104. Effective date

This title shall take effect March 1, 1977.

TITLE II—FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS

Sec. 201. Foreign fishing

(a) *IN GENERAL.*—After February 28, 1977, no foreign fishing is authorized within the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond the fishery conservation zone, unless such foreign fishing—

(1) is authorized under subsection (b) or (c);

(2) is not prohibited by subsection (f); and

(3) is conducted under, and in accordance with, a valid and applicable permit issued pursuant to section 204.

(b) *EXISTING INTERNATIONAL FISHERY AGREEMENTS.*—Foreign fishing described in subsection (a) may be conducted pursuant to an international fishery agreement (subject to the provision of section 202 (b) or (c)), if such agreement—

(1) was in effect on the date of enactment of this Act; and

(2) has not expired, been renegotiated, or otherwise ceased to be of force and effect with respect to the United States.

(c) *GOVERNING INTERNATIONAL FISHERY AGREEMENTS.*—Foreign fishing described in subsection (a) may be conducted pursuant to an international fishery agreement (other than a treaty) which meets the requirements of this subsection if such agreement becomes effective after application of section 203. Any such international fishery agreement shall hereafter in this Act be referred to as a “governing international fishery agreement”. Each governing international fishery agreement shall acknowledge the exclusive fishery management authority of the United States, as set forth in this Act. It is the sense of the Congress that each such agreement shall include a binding commitment, on the part of such foreign nation and its fishing vessels, to comply with the following terms and conditions:

(1) The foreign nation, and the owner or operator of any fishing vessel fishing pursuant to such agreement, will abide by all regulations promulgated by the Secretary pursuant to this Act, including any regulations promulgated to implement any applicable fishery management plan or any preliminary fishery management plan.

(2) The foreign nation and the owner or operator of any fishing vessel fishing pursuant to such agreement, will abide by the requirement that—

(A) any officer authorized to enforce the provisions of this Act (as provided for in section 311) be permitted—

(i) to board, and search or inspect, any such vessel at any time.

(ii) to make arrests and seizures provided for in section 311(b) whenever such officer has reasonable cause to believe, as a result of such a search or inspection, that any such vessel or any person has committed an act prohibited by section 307, and

(iii) to examine and make notations on the permit issued pursuant to section 204 for such vessel;

(B) the permit issued for any such vessel pursuant to section 204 be prominently displayed in the wheelhouse of such vessel;

(C) transponders, or such other appropriate position-fixing and identification equipment as the Secretary of the department in which the Coast Guard is operating determines to be appropriate, be installed and maintained in working order on each such vessel;

(D) duly authorized United States observers be permitted on board any such vessel and that the United States be reimbursed for the cost of such observers;

(E) any fees required under section 204(b)(10) be paid in advance;

(F) agents be appointed and maintained within the United States who are authorized to receive and respond to any legal process issued in the United States with respect to such owner or operator; and

(G) responsibility be assumed, in accordance with any requirements prescribed by the Secretary, for the reimbursement of United States citizens for any loss of, or damage to, their fishing vessels, fishing gear, or catch which is caused by and fishing vessel of that nation;

and will abide by any other monitoring, compliance, or enforcement requirement related to fishery conservation and management which is included in such agreement.

(3) The foreign nation and the owners or operators of all of the fishing vessels of such nation shall not, in any year, exceed such nation's allocation of the total allowable level of foreign fishing, as determined under subsection (e).

(4) The foreign nation will—

(A) apply, pursuant to section 204, for any required permits;

(B) deliver promptly to the owner or operator of the appropriate fishing vessel any permit which is issued under that section for such vessel; and

(C) abide by, and take appropriate steps under its own laws to assure that all such owners and operators comply with, section 204(a) and the applicable conditions and restrictions established under section 204(b)(7).

(d) **TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.**—The total allowable level of foreign fishing, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States, shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States, as determined in accordance with the provisions of this Act.

(e) *ALLOCATION OF ALLOWABLE LEVEL.*—The Secretary of State, in cooperation with the Secretary, shall determine the allocation, among foreign nations of the total allowable level of foreign fishing which is permitted with respect to any fishery subject to exclusive fishery management authority of the United States. In making any such determination, the Secretary of State and the Secretary shall consider—

(1) whether, and to what extent, the fishing vessels of such nations have traditionally engaged in fishing in such fishery;

(2) whether such nations have cooperated with the United States in, and made substantial contributions to, fishery research and the identification of fishery resources;

(3) whether such nations have cooperated with the United States in enforcement and with respect to the conservation and management of fishery resources; and

(4) such other matters as the Secretary of State, in cooperation with the Secretary, deems appropriate.

(f) *RECIPROCITY.*—Foreign fishing shall not be authorized for the fishing vessels of any foreign nation unless such nation satisfies the Secretary and the Secretary of State that such nation extends substantially the same fishing privileges to fishing vessels of the United States, if any, as the United States extends to foreign fishing vessels.

(g) *PRELIMINARY FISHERY MANAGEMENT PLANS.*—The Secretary, when notified by the Secretary of State that any foreign nation has submitted an application under section 204(b), shall prepare a preliminary fishery management plan for any fishery covered by such application if the Secretary determines that no fishery management plan for that fishery will be prepared and implemented, pursuant to title III, before March 1, 1977. To the extent practicable, each such plan—

(1) shall contain a preliminary description of the fishery and a preliminary determination as to the optimum yield from such fishery and the total allowable level of foreign fishing with respect to such fishery;

(2) shall require each foreign fishing vessel engaged or wishing to engage in such fishery to obtain a permit from the Secretary;

(3) shall require the submission of pertinent data to the Secretary, with respect to such fishery, as described in section 303(a) (5); and

(4) may, to the extent necessary to prevent irreversible effects from overfishing, with respect to such fishery, contain conservation, and management measures applicable to foreign fishing which—

(A) are determined to be necessary and appropriate for the conservation and management of such fishery,

(B) are consistent with the national standards, the other provisions of this Act, and other applicable law, and

(C) are described in section 303(b) (2), (3), (4), (5), and (7).

Each preliminary fishery management plan shall be in effect with respect to foreign fishing for which permits have been issued until a fishery management plan is prepared and implemented, pursuant to

title III, with respect to such fishery. The Secretary may, in accordance with section 553 of title 5, United States Code, also prepare and promulgate interim regulations with respect to any such preliminary plan. Such regulations shall be in effect until regulations implementing the applicable fishery management plan are promulgated pursuant to section 305.

Sec. 202. International fishery agreements

(a) **NEGOTIATIONS.**—The Secretary of State—

(1) shall renegotiate treaties as provided for in subsection (b);

(2) shall negotiate governing international fishery agreements described in section 201(c);

(3) may negotiate boundary agreements as provided for in subsection (d);

(4) shall, upon the request of and in cooperation with the Secretary, initiate and conduct negotiations for the purpose of entering into international fishery agreements—

(A) which allow fishing vessels of the United States equitable access to fish over which foreign nations assert exclusive fishery management authority, and

(B) which provide for the conservation and management of anadromous species and highly migratory species; and

(5) may enter into any other negotiations, not prohibited by subsection (c), as may be necessary and appropriate to further the purposes, policy, and provisions of this Act.

(b) **TREATY RENEGOTIATION.**—The Secretary of State, in cooperation with the Secretary, shall initiate, promptly after the date of enactment of this Act, the renegotiation of any treaty which pertains to fishing within the fishery conservation zone (or within the area that will constitute such zone after February 28, 1977), or for anadromous species or Continental Shelf fishery resources beyond such zone or area, and which is in any manner inconsistent with the purposes, policy, or provisions of this Act, in order to conform such treaty to such purposes, policy, and provisions. It is the sense of Congress that, the United States shall withdraw from any such treaty, in accordance with its provisions, if such treaty is not so renegotiated within a reasonable period of time after such date of enactment.

(c) **INTERNATIONAL FISHERY AGREEMENTS.**—No international fishery agreement (other than a treaty) which pertains to foreign fishing within the fishery conservation zone (or within the area that will constitute such zone after February 28, 1977), or for anadromous species or Continental Shelf fishery resources beyond such zone or area—

(1) which is in effect on June 1, 1976, may thereafter be renewed, extended, or amended; or

(2) may be entered into after May 31, 1976;

by the United States unless it is in accordance with the provisions of section 201(c).

(d) **BOUNDARY NEGOTIATIONS.**—The Secretary of State, in cooperation with the Secretary, may initiate and conduct negotiations with any adjacent or opposite foreign nation to establish the boundaries of the fishery conservation zone of the United States in relation to any such nation.

(e) **NONRECOGNITION.**—*It is the sense of the Congress that the United States Government shall not recognize the claim of any foreign nation to a fishery conservation zone (or the equivalent) beyond such nation's territorial sea, to the extent that such sea is recognized by the United States, if such nation—*

(1) *fails to consider and take into account traditional fishing activity of fishing vessels of the United States;*

(2) *fails to recognize and accept that highly migratory species are to be managed by applicable international fishery agreements, whether or not such nation is a party to any such agreement; or*

(3) *imposes on fishing vessels of the United States any conditions or restrictions which are unrelated to fishery conservation and management.*

Sec. 203. Congressional oversight of governing international fishery agreements

(a) **IN GENERAL.**—*No governing international fishery agreement shall become effective with respect to the United States before the close of the first 60 calendar days of continuous session of the Congress after the date on which the President transmits to the House of Representatives and to the Senate a document setting forth the text of such governing international fishery agreement. A copy of the document shall be delivered to each House of Congress on the same day and shall be delivered to the Clerk of the House of Representatives, if the House is not in session, and to the Secretary of the Senate, if the Senate is not in session.*

(b) **REFERRAL TO COMMITTEES.**—*Any document described in subsection (a) shall be immediately referred in the House of Representatives to the Committee on Merchant Marine and Fisheries, and in the Senate to the Committees on Commerce and Foreign Relations.*

(c) **COMPUTATION OF 60-DAY PERIOD.**—*For purposes of subsection (a)—*

(1) *continuity of session is broken only by an adjournment of Congress sine die; and*

(2) *the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.*

(d) **CONGRESSIONAL PROCEDURES.**—

(1) **RULES OF THE HOUSE OF REPRESENTATIVES AND SENATE.**—*The provisions of this section are enacted by the Congress—*

(A) *as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of fishery agreement resolutions described in paragraph (2), and they supersede other rules only to the extent that they are inconsistent therewith; and*

(B) *with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, and in the same manner and to the same extent as in the case of any other rule of that House.*

(2) *DEFINITION.*—For purposes of this subsection, the term “fishery agreement resolution” refers to a joint resolution of either House of Congress—

(A) the effect of which is to prohibit the entering into force and effect of any governing international fishery agreement the text of which is transmitted to the Congress pursuant to subsection (a); and

(B) which is reported from the Committee on Merchant Marine and Fisheries of the House of Representatives or the Committee on Commerce or the Committee on Foreign Relations of the Senate, not later than 45 days after the date on which the document described in subsection (a) relating to that agreement is transmitted to the Congress.

(3) *PLACEMENT ON CALENDAR.*—Any fishery agreement resolution upon being reported shall immediately be placed on the appropriate calendar.

(4) *FLOOR CONSIDERATION IN THE HOUSE.*—

(A) A motion in the House of Representatives to proceed to the consideration of any fishery agreement resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on any fishery agreement resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit any fishery agreement resolution or to move to reconsider the vote by which any fishery agreement resolution is agreed to or disagreed to.

(C) Motions to postpone, made in the House of Representatives with respect to the consideration of any fishery agreement resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any fishery agreement resolution shall be decided without debate.

(E) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any fishery agreement resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(5) *FLOOR CONSIDERATION IN THE SENATE.*—

(A) A motion in the Senate to proceed to the consideration of any fishery agreement resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) *Debate in the Senate on any fishery agreement resolution and on all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.*

(C) *Debate in the Senate on any debatable motion or appeal in connection with any fishery agreement resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover of the motion or appeal and the manager of the resolution, except that if the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. The majority leader and the minority leader, or either of them, may allot additional time to any Senator during the consideration of any debatable motion or appeal, from time under their control with respect to the application fishery agreement*

(3) **PLACEMENT ON CALENDAR.**—*Any fishery agreement resolu-*

(D) *A motion in the Senate to further limit debate is not debatable. A motion to recommit any fishery agreement resolution is not in order.*

Sec. 204. Permits for foreign fishing

(a) **IN GENERAL.**—*After February 28, 1977, no foreign fishing vessel shall engage in fishing within the fishery conservation, zone, or for anadromous species or Continental Shelf fishery resources beyond such zone, unless such vessel has on board a valid permit issued under this section for such vessel.*

(b) **APPLICATIONS AND PERMITS UNDER GOVERNING INTERNATIONAL FISHERY AGREEMENTS.**—

(1) **ELIGIBILITY.**—*Each foreign nation with which the United States has entered into a governing international fishery agreement shall submit an application to the Secretary of State each year for a permit for each of its fishing vessels that wishes to engage in fishing described in subsection (a).*

(2) **FORMS.**—*The Secretary, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall prescribe the forms for permit applications submitted under this subsection and for permits issued pursuant to any such application.*

(3) **CONTENTS.**—*Any application made under this subsection shall specify—*

(A) *the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner thereof;*

(B) *the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other pertinent information with respect to characteristics of each such vessel as the Secretary may require;*

(C) *each fishery in which each such vessel wishes to fish;*

(D) *the amount of fish or tonnage of catch contemplated*

for each such vessel during the time such permit is in force; and

(E) the ocean area in which, and the season or period during which, such fishing will be conducted; and shall include any other pertinent information and material which the Secretary may require.

(4) *TRANSMITTAL FOR ACTION.*—Upon receipt of any application which complies with the requirements of paragraph (3), the Secretary of State shall publish such application in the Federal Register and shall promptly transmit—

(A) such application, together with his comments and recommendations thereon, to the Secretary;

(B) a copy of the application to each appropriate Council and to the Secretary of the department in which the Coast Guard is operating; and

(C) a copy of such material to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committees on Commerce and Foreign Relations of the Senate.

(5) *ACTION BY COUNCIL.*—After receipt of an application transmitted under paragraph (4) (B), each appropriate Council shall prepare and submit to the Secretary such written comments on the application as it deems appropriate. Such comments shall be submitted within 45 days after the date on which the application is received by the Council and may include recommendations with respect to approval of the application and, if approval is recommended, with respect to appropriate conditions and restrictions thereon. Any interested person may submit comments to such Council with respect to any such application. The Council shall consider any such comments in formulating its submission to the Secretary.

(6) *APPROVAL.*—After receipt of any application transmitted under paragraph (4) (A), the Secretary shall consult with the Secretary of State and, with respect to enforcement, with the Secretary of the department in which the Coast Guard is operating. The Secretary, after taking into consideration the views and recommendations of such Secretaries, and any comments submitted by any Council under paragraph (5) may approve the application will meet the requirements of this Act.

(7) *ESTABLISHMENT OF CONDITIONS AND RESTRICTIONS.*—The Secretary shall establish conditions and restrictions which shall be included in each permit issued pursuant to any application approved under paragraph (6) and which must be complied with by the owner or operator of the fishing vessel for which the permit is issued. Such conditions and restrictions shall include the following:

(A) All of the requirements of any applicable fishery management plan, or preliminary fishery management plan, and the regulations promulgated to implement any such plan.

(B) The requirement that no permit may be used by any vessel other than the fishing vessel for which it is issued.

(C) *The requirements described in section 201(c) (1), (2), and (3).*

(D) *Any other condition and restriction related to fishery conservation and management which the Secretary prescribes as necessary and appropriate.*

(8) *NOTICE OF APPROVAL.—The Secretary shall promptly transmit a copy of each application approved under paragraph (6) and the conditions and restrictions established under paragraph (7) to—*

(A) *the Secretary of State for transmittal to the foreign nation involved;*

(B) *the Secretary of the department in which the Coast Guard is operating;*

(C) *any Council which has authority over any fishery specified in such application; and*

(D) *the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committees on Commerce and Foreign Relations of the Senate.*

(9) *DISAPPROVAL OF APPLICATIONS.—If the Secretary does not approve any application submitted by a foreign nation under this subsection, he shall promptly inform the Secretary of State of the disapproval and his reasons therefor. The Secretary of State shall notify such foreign nation of the disapproval and the reasons therefor. Such foreign nation, after taking into consideration the reasons for disapproval, may submit a revised application under this subsection.*

(10) *FEES.—Reasonable fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection. The Secretary, in consultation with the Secretary of State, shall establish and publish a schedule of such fees, which shall apply nondiscriminatorily to each foreign nation. In determining the level of such fees, the Secretary may take into account the cost of carrying out the provisions of this Act with respect to foreign fishing, including, but not limited to, the cost of fishery conservation and management, fisheries, research, administration, and enforcement.*

(11) *ISSUANCE OF PERMITS.—If a foreign nation notifies the Secretary of State of its acceptance of the conditions and restrictions established by the Secretary under paragraph (7), the Secretary of State shall promptly transmit such notification to the Secretary. Upon payment of the applicable fees established pursuant to paragraph (10), the Secretary shall thereupon issue to such foreign nation, through the Secretary of State, permits for the appropriate fishing vessels of that nation. Each permit shall contain a statement of all conditions and restrictions established under paragraph (7) which apply to the fishing vessel for which the permit is issued.*

(12) *SANCTIONS.—If any foreign fishing vessel for which a permit has been issued pursuant to this subsection has been used in the commission of any act prohibited by section 307 the Secretary may, or if any civil penalty imposed under section 308 or any criminal fine imposed under section 309 has not been paid and is overdue the Secretary shall—*

(A) revoke such permit, with or without prejudice to the right of the foreign nation involved to obtain a permit for such vessel in any subsequent year;

(B) suspend such permit for the period of time deemed appropriate; or

(C) impose additional conditions and restrictions on the approved application of the foreign nation involved and on any permit issued under such application.

Any permit which is suspended under this paragraph for non-payment of a civil penalty shall be reinstated by the Secretary upon the payment of such civil penalty together with interest thereon at the prevailing rate.

(c) **REGISTRATION PERMITS.**—The Secretary of State, in cooperation with the Secretary, shall issue annually a registration permit for each fishing vessel of a foreign nation which is a party to an international fishery agreement under which foreign fishing is authorized by section 201(b) and which wishes to engage in fishing described in subsection (a). Each such permit shall set forth the terms and conditions contained in the agreement that apply with respect to such fishing, and shall include the additional requirement that the owner or operator of the fishing vessel for which the permit is issued shall prominently display such permit in the wheelhouse of such vessel and show it, upon request, to any officer authorized to enforce the provisions of this Act (as provided for in section 311). The Secretary of State, after consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form and manner in which applications for registration permits may be made, and the forms for such permits. The Secretary of State may establish, require the payment of, and collect fees for registration permits; except that the level of such fees shall not exceed the administrative costs incurred by him in issuing such permits.

Sec. 205. Import prohibitions

(a) **DETERMINATIONS BY SECRETARY OF STATE.**—If the Secretary of State determines that—

(1) he has been unable, within a reasonable period of time, to conclude with any foreign nation an international fishery agreement allowing fishing vessels of the United States equitable access to fisheries over which that nation asserts exclusive fishery management authority, as recognized by the United States, in accordance with traditional fishing activities of such vessels, if any, and under terms not more restrictive than those established under sections 201 (c) and (d) and 204(b) (7) and (10), because such nation has (A) refused to commence negotiations, or (B) failed to negotiate in good faith;

(2) any foreign nation is not allowing fishing vessels of the United States to engage in fishing for highly migratory species in accordance with an applicable international fishery agreement, whether or not such nation is a party thereto;

(3) any foreign nation is not complying with its obligations under any existing international fishery agreement concerning fishing by fishing vessels of the United States in any fishery over which that nation asserts exclusive fishery management authority; or

(4) any fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, is seized by any foreign nation—

(A) in violation of an applicable international fishery agreement;

(B) without authorization under an agreement between the United States and such nation; or

(C) as a consequence of a claim of jurisdiction which is not recognized by the United States;

he shall certify such determination to the Secretary of the Treasury.

(b) *PROHIBITIONS.*—Upon receipt of any certification from the Secretary of the State under subsection (a), the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the United States—

(1) of all fish and fish products from the fishery involved, if any; and

(2) upon recommendation of the Secretary of State, such other fish or fish products, from any fishery of the foreign nation concerned, which the Secretary of State finds to be appropriate to carry out the purposes of this section.

(c) *REMOVAL OF PROHIBITION.*—If the Secretary of State finds that the reasons for the imposition of any import prohibition under this section no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove such import prohibition.

(d) *Definition.*—As used in this section—

(1) The term “fish” includes any highly migratory species.

(2) The term “fish products” means any article which is produced from or composed of (in whole or in part) any fish.

TITLE III—NATIONAL FISHERY MANAGEMENT PROGRAM

Sec. 301. National standards for fishery conservation and management

(a) *IN GENERAL.*—Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to this title shall be consistent with the following national standards for fishery conservation and management:

(1) Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.

(2) Conservation and management measures shall be based upon the best scientific information available.

(3) To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

(4) Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and

equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(5) Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

(6) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

(7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

(b) **GUIDELINES.**—The Secretary shall establish guidelines, based on the national standards, to assist in the development of fishery management plans.

Sec. 302. Regional fishery management councils

(a) **ESTABLISHMENT.**—There shall be established, within 120 days after the date of the enactment of this act, eight Regional Fishery Management Councils, as follows:

(1) **NEW ENGLAND COUNCIL.**—The New England Fishery Management Council shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut and shall have authority over the fisheries in the Atlantic Ocean seaward of such States. The New England Council shall have 17 voting members, including 11 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(2) **MID-ATLANTIC COUNCIL.**—The Mid-Atlantic Fishery Management Council shall consist of the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, and Virginia and shall have authority over the fisheries in the Atlantic Ocean seaward of such States. The Mid-Atlantic Council shall have 19-voting members, including 12 appointed by the Secretary pursuant to subsection (b) (1) (at least one of whom shall be appointed from each such State).

(3) **SOUTH ATLANTIC COUNCIL.**—The South Atlantic Fishery Management Council shall consist of the States of North Carolina, South Carolina, Georgia, and Florida and shall have authority over the fisheries in the Atlantic Ocean seaward of such States. The South Atlantic Council shall have 13 voting members, including 8 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(4) **CARIBBEAN COUNCIL.**—The Caribbean Fishery Management Council shall consist of the Virgin Islands and the Commonwealth of Puerto Rico and shall have authority over the fisheries in the Caribbean Sea and Atlantic Ocean seaward of such States. The Caribbean Council shall have 7 voting members, including 4 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(5) *GULF COUNCIL*.—The Gulf of Mexico Fishery Management Council shall consist of the States of Texas, Louisiana, Mississippi, Alabama, and Florida and shall have authority over the fisheries in the Gulf of Mexico seaward of such States. The Gulf Council shall have 17 voting members, including 11 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(6) *PACIFIC COUNCIL*.—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 13 voting members, including 8 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(7) *NORTH PACIFIC COUNCIL*.—The North Pacific Fishery Management Council shall consist of the States of Alaska, Washington, and Oregon and shall have authority over the fisheries in the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska. The North Pacific Council shall have 11 voting members, including 7 appointed by the Secretary pursuant to subsection (b) (1) (C) (5 of whom shall be appointed from the State of Alaska and 2 of whom shall be appointed from the State of Washington).

(8) *WESTERN PACIFIC COUNCIL*.—The Western Pacific Fishery Management Council shall consist of the State of Hawaii, American Samoa, and Guam and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Western Pacific Council shall have 11 voting members, including 7 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

Each Council shall reflect the expertise and interest of the several constituent States in the ocean area over which such Council is granted authority.

(b) *VOTING MEMBERS*.—(1) The voting members of each Council shall be:

(A) The principal State official with marine fishery management responsibility and expertise in each constituent State, who is designated as such by the Governor of the State, so long as the official continues to hold such position, or the designee of such official.

(B) The regional director of the National Marine Fisheries service for the geographic area concerned, or his designee, except that if two such directors are within such geographical area, the Secretary shall designate which of such directors shall be the voting member.

(C) The members required to be appointed by the Secretary shall be appointed by the Secretary from a list of qualified individuals submitted by the Governor of each applicable constituent State. With respect to the initial such appointments, such Governors shall submit such lists to the Secretary as soon as practicable, not later than 45 days after the date of the enactment of this Act. As used in this subparagraph, (i) the term "list of qualified individuals" shall include the names (including pertinent bio-

graphical data) of not less than three such individuals for each applicable vacancy, and (ii) the term "qualified individual" means an individual who is knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest, of the fishery resources of the geographical area concerned.

(2) Each voting member appointed to a Council pursuant to paragraph (1)(C) shall serve for a term of 3 years; except that, with respect to the members initially so appointed, the Secretary shall designate up to one-third thereof to serve for a term of 1 year, up to one-third thereof to serve for a term of 2 years, and the remaining such members to serve for a term of 3 years.

(3) Successors to the voting members of any Council shall be appointed in the same manner as the original voting members. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.

(c) NONVOTING MEMBERS.—(1) The nonvoting members of each Council shall be:

(A) The regional or area director of the United States Fish and Wildlife Service for the geographical area concerned, or his designee.

(B) The commander of the Coast Guard district for the geographical area concerned, or his designee; except that, if two Coast Guard districts are within such geographical area, the commander designated for such purpose by the commandant of the Coast Guard.

(C) The executive director of the Marine Fisheries Commission for the geographical area concerned, if any, or his designee.

(D) One representative of the Department of State designated for such purpose by the Secretary of State, or his designee.

(2) The Pacific Council shall have one additional nonvoting member who shall be appointed by, and serve at the pleasure of, the Governor of Alaska.

(d) COMPENSATION AND EXPENSES.—The voting members of each Council, who are not employed by the Federal Government or any State or local government, shall receive compensation at the daily rate for GS-18 of the General Schedule when engaged in the actual performance of duties for such Council. The voting members of each Council, any nonvoting member described in subsection (c)(1)(C), and the nonvoting member appointed pursuant to subsection (c)(2) shall be reimbursed for actual expenses incurred in the performance of such duties.

(e) TRANSACTION OF BUSINESS.—

(1) A majority of the voting members of any Council shall constitute a quorum, but one or more such members designated by the Council may hold hearings. All decisions of any Council shall be by majority vote of the voting members present and voting.

(2) The voting members of each Council shall select a Chairman for such Council from among the voting members.

(3) Each Council shall meet in the geographical area concerned at the call of the Chairman or upon the request of a majority of its voting members.

(4) *If any voting member of a Council disagrees with respect to any matter which is transmitted to the Secretary of such Council, such member may submit a statement to the Secretary setting forth the reasons for such disagreement.*

(f) *STAFF AND ADMINISTRATION.—*

(1) *Each Council may appoint, and assign duties to, an executive director and such other full- and part-time administrative employees as the Secretary determines are necessary to the performance of its functions.*

(2) *Upon the request of any Council, and after consultation with the Secretary, the head of any Federal agency is authorized to detail to such Council, on a reimbursable basis, any of the personnel of such agency, to assist such Council in the performance of its functions under this Act.*

(3) *The Secretary shall provide to each Council such administrative and technical support services as are necessary for the effective functioning of such Council.*

(4) *The Administrator of General Services shall furnish each Council with such offices, equipment, supplies and services as he is authorized to furnish to any other agency or instrumentality of the United States.*

(5) *The Secretary and the Secretary of State shall furnish each Council with relevant information concerning foreign fishing and international fishery agreements.*

(6) *Each Council shall determine its organization and prescribe its practices and procedures for carrying out its functions under this Act, in accordance with such uniform standards as are prescribed by the Secretary. Each Council shall publish and make available to the public a statement of its organization, practices, and procedures.*

(7) *The Secretary shall pay—*

(A) *the compensation and expenses provided for in subsection (d);*

(B) *appropriate compensation to employees appointed under paragraph (1);*

(C) *the amounts required for reimbursements of other Federal agencies under paragraphs (2) and (4);*

(D) *the actual expenses of the members of the committees and panels established under subsection (g); and*

(E) *such other costs as the Secretary determines are necessary to the performance of the functions of the Councils.*

(g) *COMMITTEES AND PANELS.—*

(1) *Each Council shall establish and maintain, and appoint the members of, a scientific and statistical committee to assist it in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.*

(h) *FUNCTIONS.—Each Council shall, in accordance with the provisions of this Act—*

(1) *prepare and submit to the Secretary a fishery management plan with respect to each fishery within its geographical area of*

authority and, from time to time, such amendments to each plan as are necessary;

(2) prepare comments on any application for foreign fishing transmitted to it under section 204(b)(4)(B), and any fishery management plan or amendment transmitted to it under section 304(c)(2);

(3) conduct public hearings, at appropriate times and in appropriate locations in the geographical area concerned, so as to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments to such plans, and with respect to the administration and implementation of the provisions of this Act;

(4) submit to the Secretary—

(A) a report, before February 1 of each year, on the Council's activities during the immediately preceding calendar year,

(B) such periodic reports as the Council deems appropriate, and

(C) any other relevant report which may be requested by the Secretary;

(5) review on a continuing basis, and revise as appropriate, the assessments and specifications made pursuant to section 303(a)(3) and (4) with respect to the optimum yield from, and the total allowable level of foreign fishing in, each fishery within its geographical area of authority; and

(6) conduct any other activities which are required by, or provided for in, this Act or which are necessary and appropriate to the foregoing functions.

Sec. 303. Contents of fishery management plans

(a) **REQUIRED PROVISIONS.** Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—

(A) necessary and appropriate for the conservation and management of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interests in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) *assess and specify—*

(A) *the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3), and*

(B) *the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing; and*

(5) *specify the pertinent data which shall be submitted to the Secretary with respect to the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, which fishing was engaged in, time of fishing, and number of hauls.*

(d) *DISCRETIONARY PROVISIONS.—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—*

(1) *require a permit to be obtained from, and fees to be paid to, the Secretary with respect to any fishing vessel of the United States fishing, or wishing to fish, in the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond such zone;*

(2) *designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;*

(3) *establish specified limitations on the catch of fish (based on area, species, size, number, weight, sex, incidental catch, total biomass, or other factors), which are necessary and appropriate for the conservation and management of the fishery;*

(4) *prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;*

(5) *incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery;*

(6) *establish a system for limiting access to the fishery in order to achieve optimum yield if, in developing such systems, the Council and the Secretary take into account—*

(A) *present participation in the fishery,*

(B) *historical fishing practices in, and dependence on, the fishery,*

(C) *the economics of the fishery,*

(D) *the capability of fishing vessels used in the fishery to engage in other fisheries,*

(E) *the cultural and social framework relevant to the fishery, and*

(F) *any other relevant considerations; and*

(7) *prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.*

(c) *PROPOSED REGULATIONS.—Any Council may prepare any proposed regulations which it deems necessary and appropriate to carry*

out any fishery management plan, or any amendment to any fishery management plan, which is prepared by it. Such proposed regulations shall be submitted to the Secretary, together with such plan or amendment, for action by the Secretary pursuant to sections 304 and 305.

(d) **CONFIDENTIALITY OF STATISTICS.**—Any statistics submitted to the Secretary by any person in compliance with any requirement under subsection (a) (5) shall be confidential and shall not be disclosed except when required under court order. The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary may release or make public any such statistics in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such statistics.

Sec. 304. Action by the Secretary

(a) **ACTION BY THE SECRETARY AFTER RECEIPT OF PLAN.**—Within 60 days after the Secretary receives any fishery management plan, or any amendment to any such plan, which is prepared by any Council, the Secretary shall—

(1) review such plan or amendment pursuant to subsection (b); and

(2) notify such Council in writing of his approval, disapproval, or partial disapproval of such plan or amendment.

In the case of disapproval or partial disapproval, the Secretary shall include in such notification a statement and explanation of the Secretary's objections and the reasons therefor, suggestions for improvement, a request to such Council to change such plan or amendment to satisfy the objections, and a request to resubmit the plan or amendment, as so modified, to the Secretary within 45 days after the date on which the Council receives such notification.

(b) **REVIEW BY THE SECRETARY.**—The Secretary shall review any fishery management plan, and any amendment to any such plan, prepared by any Council and submitted to him to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law. In carrying out such review, the Secretary shall consult with—

(1) the Secretary of State with respect to foreign fishing; and

(2) the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

(c) **PREPARATION BY THE SECRETARY.**—(1) The Secretary may prepare a fishery management plan, with respect to any fishery, or any amendment to any such plan, in accordance with the national standards, the other provisions of this Act, and any other applicable law, if—

(A) the appropriate Council fails to develop and submit to the Secretary, after a reasonable period of time, a fishery management plan for such fishery, or any necessary amendment to such a plan, if such fishery requires conservation and management; or

(B) the Secretary disapproves or partially disapproves any such plan or amendment, and the Council involved fails to change such plan or amendment in accordance with the notification made under subsection (a) (2).

In preparing any such plan or amendment, the Secretary shall consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

(2) Whenever, pursuant to paragraph (1), the Secretary prepares a fishery management plan or amendment, the Secretary shall promptly transmit such plan or amendment to the appropriate Council for consideration and comment. Within 45 days after the date of receipt of such plan or amendment, the appropriate Council may recommend, to the Secretary, changes in such plan or amendment, consistent with the national standards, the other provisions of this Act, and any other applicable law. After the expiration of such 45-day period, the Secretary may implement such plan or amendment pursuant to section 305.

(3) Notwithstanding paragraph (1), the Secretary may not include in any fishery management plan, or any amendment to any such plan, prepared by him, a provision establishing a limited access system described in section 303(b)(6), unless such system is first approved by a majority of the voting members, present and voting, of each appropriate Council.

(d) **ESTABLISHMENT OF FEES.**—The Secretary shall by regulation establish the level of any fees which are authorized to be charged pursuant to section 303(b)(1). Such level shall not exceed the administrative costs incurred by the Secretary in issuing such permits.

(e) **FISHERIES RESEARCH.**—The Secretary shall initiate and maintain a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management, including, but not limited to, biological research concerning the interdependence of fisheries or stocks of fish, the impact of pollution on fish, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

(f) **MISCELLANEOUS DUTIES.**—(1) If any fishery extends beyond the geographical area of authority of any one Council, the Secretary may—

(A) designate which Council shall prepare the fishery management plan for such fishery and any amendment to such plan; or

(B) may require that the plan and amendment be prepared jointly by the Councils concerned.

No jointly prepared plan or amendment may be submitted to the Secretary unless it is approved by a majority of the voting members, present and voting, of each Council concerned.

(2) The Secretary shall establish the boundaries between the geographical areas of authority of adjacent Councils.

Sec. 305. Implementation of fishery management plans

(a) **IN GENERAL.**—As soon as practicable after the Secretary—

(1) approves, pursuant to section 304(a) and (b), any fishery management plan or amendment; or

(2) prepares, pursuant to section 304(c), any fishery management plan or amendment;

the Secretary shall publish in the Federal Register (A) such plan or amendment, and (B) any regulations which he proposes to promulgate to implement such plan or amendment. Interested persons shall be afforded a period of not less than 45 days after such publication within which to submit in writing data, views, or comments on the plan or amendment, and on the proposed regulations.

(b) *HEARING.*—The Secretary may schedule a hearing, in accordance with section 553 of title 5, United States Code, on any fishery management plan, any amendment to any such plan, and any regulations to implement any such plan or amendment. If any such hearing is scheduled, the Secretary may, pending its outcome—

(A) postpone the effective date of the regulations proposed to implement such plan or amendment; or

(B) take such other action as he deems appropriate to preserve the rights or status of any person.

(c) *IMPLEMENTATION.*—The Secretary shall promulgate regulations to implement any fishery management plan or any amendment to any such plan—

(1) after consideration of all relevant matters—

(A) presented to him during the 45-day period referred to in subsection (a), and

(B) produced in any hearing held under subsection (b); and

(2) if he finds that the plan or amendment is consistent with the national standards, the other provisions of this Act, and any other applicable law.

To the extent practicable, such regulations shall be put into effect in a manner which does not disrupt the regular fishing season for any fishery.

(d) *JUDICIAL REVIEW.*—Regulations promulgated by the Secretary under this Act shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a petition for such review is filed within 30 days after the date on which the regulations are promulgated; except that (1) section 705 of such title is not applicable, and (2) the appropriate court shall only set aside any such regulation on a ground specified in section 706 (2) (A), (B), (C), or (D) of such title.

(e) *EMERGENCY ACTIONS.*—If the Secretary finds that an emergency involving any fishery resources exists, he may—

(1) promulgate emergency regulations, without regard to subsections (a) and (c), to implement any fishery management plan, if such emergency so requires; or

(2) promulgate emergency regulations to amend any regulation which implements any existing fishery management plan, to the extent required by such emergency.

Any emergency regulation which changes any existing fishery management plan shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation promulgated under this subsection (A) shall be published in the Federal Register together with the reasons therefor; (B) shall remain in effect for not more than 45 days after the date of such publication, except that any such regulation may be repromulgated for one addi-

tional period of not more than 45 days; and (C) may be terminated by the Secretary at any earlier date by publication in the Federal Register of a notice of termination.

(e) *ANNUAL REPORT*.—The Secretary shall report to the Congress and the President, not later than March 1 of each year, on all activities of the Councils and the Secretary with respect to fishery management plans, regulations to implement such plans, and all other activities, relating to the conservation and management of fishery resources that were undertaken under this Act during the preceding calendar year.

(f) *RESPONSIBILITY OF THE SECRETARY*.—The Secretary shall have general responsibility to carry out any fishery management plan or amendment approved or prepared by him, in accordance with the provisions of this Act. The Secretary may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to discharge such responsibility or to carry out any other provision of this Act.

Sec. 306. State jurisdiction

(a) *IN GENERAL*.—Except as provided in subsection (b), nothing in this Act shall be construed as extending or diminishing the jurisdiction or authority of any State within its boundaries. No State may directly or indirectly regulate any fishery which is engaged in by any fishing vessel outside its boundaries, unless such vessel is registered under the laws of such State.

(b) *EXCEPTION*.—(1) If the Secretary finds, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that—

(A) the fishing in a fishery, which is covered by a fishery management plan implemented under this Act, is engaged in predominately within the fishery conservation zone and beyond such zone; and

(B) any State has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of such fishery management plan; the Secretary shall promptly notify such State and the appropriate Council of such finding and of his intention to regulate the applicable fishery within the boundaries of such State (other than its internal waters), pursuant to such fishery management plan and the regulations promulgated to implement such plan.

(2) If the Secretary, pursuant to this subsection, assumes responsibility for the regulation of any fishery, the State involved may at any time thereafter apply to the Secretary for reinstatement of its authority over such fishery. If the Secretary finds that the reasons for which he assumed such regulation no longer prevail, he shall promptly terminate such regulation.

Sec. 307. Prohibited acts

It is unlawful—

(1) for any person—

(A) to violate any provision of this Act or any regulation or permit issued pursuant to this Act;

(B) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, of an applicable permit issued pursuant to this Act;

(C) to violate any provision of, or regulation under, an applicable governing international fishery agreement entered into pursuant to section 201 (c);

(D) to refuse to permit any officer authorized to enforce the provisions of this Act (as provided for in section 311) to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act or any regulation, permit, or agreement referred to in subparagraph (A) or (C);

(E) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in subparagraph (D);

(F) to resist a lawful arrest for any act prohibited by this section;

(G) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or agreement referred to in subparagraph (A) or (C); or

(H) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section; and

(2) for any vessel other than a vessel of the United States, and for the owner or operator of any vessel other than a vessel of the United States, to engage in fishing—

(A) within the boundaries of any State; or

(B) within the fishing conservation zone, or for any anadromous species or Continental Shelf fishery resources beyond such zone, unless such fishing is authorized by, and conducted in accordance with, a valid and applicable permit issued pursuant to section 204 (b) or (c).

Sec. 308. Civil penalties

(a) **ASSESSMENT OF PENALTY.**—Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 307 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(b) **REVIEW OF CIVIL PENALTY.**—Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of

the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706 (2) of title 5, United States Code.

(c) **ACTION UPON FAILURE TO PAY ASSESSMENT.**—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) **COMPROMISE OR OTHER ACTION BY SECRETARY.**—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

Sec. 309. Criminal offenses

(a) **OFFENSES.**—A person is guilty of an offense if he commits any act prohibited by—

- (1) section 307 (1) (D), (E), (F), or (H); or
- (2) section 307 (2).

(b) **PUNISHMENT.**—Any offense described in subsection (a) (1) is punishable by a fine of not more than \$50,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this Act (as provided for in section 311) or places any such officer in fear of imminent bodily injury, the offense is punishable by a fine of not more than \$100,000, or imprisonment for not more than 10 years, or both. Any offense described in subsection (a) (2) is punishable by a fine of not more than \$100,000, or imprisonment for not more than 1 year, or both.

(c) **JURISDICTION.**—There is Federal jurisdiction over any offense described in this section.

Sec. 310. Civil forfeitures

(a) **IN GENERAL.**—Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 307 (other than any act for which the issuance of a citation under section 311 (c) is sufficient sanction) shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) **JURISDICTION OF COURTS.**—Any district court of the United States which has jurisdiction under section 311 (d) shall have jurisdiction upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) **JUDGMENT.**—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General

may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this Act or for which security has not previously been obtained under subsection (d). The provisions of the customs laws relating to—

- (1) the disposition of forfeited property,
- (2) the proceeds from the sale of forfeited property,
- (3) the remission or mitigation of forfeitures, and
- (4) the compromise of claims,

shall apply to any forfeiture ordered, and to any case in which forfeiture is alleged to be authorized, under this section, unless such provisions are inconsistent with the purposes, policy, and provisions of this Act. The duties and powers imposed upon the Commissioner of Customs or other persons under such provisions shall, with respect to this Act, be performed by officers or other persons designated for such purpose by the Secretary.

(d) **PROCEDURE.**—(1) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 311 (d) shall—

(A) stay the execution of such process; or

(B) discharge any fish seized pursuant to such process;

upon the receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditions upon such person (A) delivering such property to the appropriate court upon order thereof, without any impairment of its value, or (B) paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any fish seized pursuant to this Act may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) **REBUTTABLE PRESUMPTION.**—For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel which is seized in connection with an act prohibited by section 307 were taken or retained in violation of this Act.

Sec. 311. Enforcement

(a) **RESPONSIBILITY.**—The provisions of this Act shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall report semiannually, to each committee of the Congress listed in section 203(b) and to the Councils, on the degree and extent of known and estimated compliance with the provisions of this Act.

(b) **POWERS OF AUTHORIZED OFFICERS.**—Any officer who is authorized (by the Secretary, the Secretary of the department in which the Coast

Guard is operating, or the head of any Federal or State agency which has entered into an agreement with such Secretaries under subsection (a)) to enforce the provisions of this Act may—

(1) with or without a warrant or other process—

(A) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 307;

(B) board, and search or inspect, any fishing vessel which is subject to the provisions of the Act;

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this Act;

(D) seize any fish (wherever found) taken or retained in violation of any provision of this Act; and

(E) seize any other evidence related to any violation of any provision of this Act;

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(c) ISSUANCE OF CITATIONS.—If any officer authorized to enforce the provisions of this Act (as provided for in this section finds that a fishing vessel is operating or has been operated in violation of any provision of this Act, such officer may, in accordance with regulations issued jointly by the Secretary and the Secretary of the department in which the Coast Guard is operating, issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (b). If a permit has been issued pursuant to this Act for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason thereof, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(d) JURISDICTION OF COURTS.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii. Any such court may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take other actions as are in the interest of justice.

(e) DEFINITION.—For purposes of this section—

(1) The term "provisions of this Act" includes (A) any regulation or permit issued pursuant to this Act, and (B) any provision of, or regulation issued pursuant to, any international fishery agreement under which foreign fishing is authorized by section 201(b) or (c), with respect to fishing subject to the exclusive fishery management authority of the United States.

- (2) The term "violation of any provision of this Act" includes
 (A) the commission of any act prohibited by section 307, and
 (B) the violation of any regulation, permit, or agreement referred to in paragraph (1).

Sec. 312. Effective date of certain provisions

Sections 307, 308, 309, 310 and 311 shall take effect March 1, 1977.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Effect on Law of the Sea Treaty

If the United States ratifies a comprehensive treaty, which includes provisions with respect to fishery conservation and management jurisdiction, resulting from any United Nations Conference on the Law of the Sea, the Secretary, after consultation with the Secretary of State, may promulgate any amendment to the regulations promulgated under this Act if such amendment is necessary and appropriate to conform such regulations to the provisions of such treaty, in anticipation of the date when such treaty shall come into force and effect for, or otherwise be applicable to, the United States.

Sec. 402. Repeals

(a) *The Act of October 14, 1966 (16 U.S.C. 1091–1094), is repealed as of March 1, 1977.*

(b) *The Act of May 20, 1964 (16 U.S.C. 1081–1086), is repealed as of March 1, 1977.*

Sec. 403. Fishermen's Protective Act Amendments

(a) **AMENDMENTS.**—*The Act of August 27, 1954 (22 U.S.C. 1972), is amended—*

(1) by amending section 2 thereof to read as follows:

"Sec. 2. If—

"(1) Any vessel of the United States is seized by a foreign country on the basis of claims in territorial waters or the high seas which are not recognized by the United States; or

"(2) any general claim of any foreign country to exclusive fishery management authority is recognized by the United States, and any vessel of the United States is seized by such foreign country on the basis of conditions and restrictions under such claim, if such conditions and restrictions—

"(A) are unrelated to fishery conservation and management,

"(B) fail to consider and take into account traditional fishing practices of vessels of the United States,

"(C) are greater or more onerous than the conditions and restrictions which the United States applies to foreign fishing vessels subject to the exclusive fishery management authority of the United States (as established in title I of the Fishery Conservation and Management Act of 1976), or

"(D) fail to allow fishing vessels of the United States equitable access to fish subject to such country's exclusive fishery management authority;

and there is no dispute as to the material facts with respect to the location or activity of such vessel at the time of such

seizure, the Secretary of State shall immediately take such steps as are necessary—

“(i) for the protection of such vessel and for the health and welfare of its crew;

“(ii) to secure the release of such vessel and its crew; and

“(iii) to determine the amount of any fine, license, fee, registration fee, or other direct charge reimbursable under section 3(a) of this Act.”; and

(2) by amending section 3(a) thereof by inserting immediately before the last sentence thereof the following new sentence: “For purposes of this section, the term ‘other direct charge’ means any levy, however characterized or computed (including, but not limited to, any computation based on the value of a vessel or the value of fish or other property on board a vessel), which is imposed in addition to any fine, license fee, or registration fee.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) (1) shall take effect March 1, 1977. The amendment made by subsection (a) (2) shall apply with respect to seizures of vessels of the United States occurring on or after December 31, 1974.

Sec. 404. Marine Mammal Protection Act Amendment

(a) **AMENDMENT.**—Section c(15)(B) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(15)(B)) is amended by striking out “the fisheries zone established pursuant to the Act of October 14, 1966.” and inserting in lieu thereof “the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect March 1, 1977.

Sec. 405. Atlantic Tunas Convention Act Amendment

(a) **AMENDMENT.**—Section 2(4) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971(4)) is amended by striking out “the fisheries zone established pursuant to the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091–1094),” and inserting in lieu thereof “the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect March 1, 1977.

Sec. 406. Authorization of appropriations

There are authorized to be appropriated to the Secretary, for purposes of carrying out the provisions of this Act, not to exceed the following sums:

(1) \$500,000 for the fiscal year ending June 30, 1976.

(2) \$5,000,000 for the transitional fiscal quarter ending September 30, 1976.

(3) \$25,000,000 for the fiscal year ending September 30, 1977.

(4) \$30,000,000 for the fiscal year ending September 30, 1978.

And the Senate agree to the same.

That the Senate recede from its amendment to the title of the bill.

WARREN G. MAGNUSON,
JOHN O. PASTORE,
ERNEST F. HOLLINGS,
EDMUND S. MUSKIE,
THOMAS J. MCINTYRE,
EDWARD M. KENNEDY,
CLAIBORNE PELL,
JAMES L. BUCKLEY,
TED STEVENS,
J. GLENN BEALL,
LOWELL P. WEICKER, Jr.,
BOB PACKWOOD,

Managers on the Part of the Senate.

LEONOR K. SULLIVAN,
JOHN D. DINGELL,
THOMAS N. DOWNING,
ROBERT L. LEGGETT,
GERRY E. STUDDS,
PHILIP E. RUPPE,
EDWIN B. FORSYTHE,

Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 200), to provide for the conservation and management of the fisheries, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text and provided a new title for the House bill, and the House disagreed to the Senate amendments.

The committee of conference recommends that the House recede from its disagreement to the amendment of the Senate to the text of the House bill, with an amendment which is a substitute for both the text of the House bill and the Senate amendment to the text of the House bill. The committee of conference also recommends that the Senate recede from its amendment to the title of the House bill.

The provisions of the amendment recommended by the committee of conference are set forth below in a manner sufficiently detailed and explicit to inform the House and the Senate as to the effect which the amendment contained in the accompanying conference report will have upon the measure to which it relates.

SUMMARY AND DESCRIPTION

The purpose of the conference substitute is to provide for the protection, conservation, and enhancement of the fishery resources of the United States. To achieve this objective, the conference substitute follows both the House bill and the Senate amendment in—

(1) Establishing a zone contiguous to the territorial sea of the United States and extending 200 nautical miles from the baseline from which that sea is measured, to be known as the fishery conservation zone; and by providing that the United States shall exercise exclusive fishery management authority within this zone over all fish (except highly migratory species), and beyond this zone, over all anadromous species of fish that spawn in U.S. rivers and streams and migrate to ocean waters, to the extent of their range, and over all fishery resources of the Continental Shelf which appertains to the United States; and

(2) Providing for the development, implementation, administration, and enforcement of fishery management plans and regulations, in accordance with national standards for fishery conservation and management, with respect to any fish over which the United States exercises exclusive fishery management authority; and by providing for foreign fishing consonant with such conservation and management measures pursuant to U.S.-issued per-

mits, and in accordance with new governing international fishery agreements with the United States acknowledging this exclusive U.S. fishery management authority.

The legislation is not intended to interfere with or to preempt pending legislation at the third session of the Third United Nations Law of the Sea Conference. First, the provisions establishing the fishery conservation zone, exclusive U.S. authority (title I), and enforcement (sections 307-311) shall not take effect until March 1, 1977. Second, it is a declared policy of Congress in this legislation "to support and encourage continued active United States efforts to obtain an internationally acceptable treaty which provides for effective fishery conservation and management" (sec. 2(c)(5)). Third, the conference substitute follows the House bill in granting the Secretary of Commerce authority to conform regulations issued pursuant to this Act to the fishery management jurisdiction provisions of an international fishery agreement that may result from any United Nations Conference on the Law of the Sea once that agreement has been ratified by the United States and in anticipation of that agreement coming into force and effect or otherwise being applicable to the United States (sec. 401). The provisions are not only provisional, pending international agreement, but they are also substantially consistent with the developing consensus within the Third United Nations Law of the Sea Conference.

The conference substitute maintains the existing ocean jurisdiction of the United States without change for all purposes other than the conservation and management of fishery resources (sec. 2(c)(1)), and it follows both the House bill and the Senate amendment in specifically excluding highly migratory species of fish from exclusive coastal nation management authority (sec. 103). Highly migratory species are to be managed pursuant to international fishery agreements established for such purpose.

Title II of the conference substitute authorizes foreign fishing for species and resources under the exclusive fishery management authority of the United States pursuant to (1) an international fishery agreement which is in effect as of the date of enactment of this legislation pending renegotiation (in the case of a treaty) or expiration (in any other case), and (2) pursuant to a "governing international fishery agreement". It is the sense of Congress that a governing international fishery agreement between the U.S. and a foreign fishing nation shall contain specified provisions essential to the conservation and management of fishery resources (sec. 201(c)). The conference substitute follows the House bill in providing that such an agreement shall not become effective until it has been submitted to and reviewed by the Congress (sec. 203). The total allowable level of foreign fishing with respect to any fishery under exclusive United States authority shall be that portion of the optimum yield from such fishery which will not be harvested by vessels of the United States. No foreign fishing vessel shall engage in fishing within the fishery conservation zone of the United States or for anadromous species or Continental Shelf fishery resources of the United States beyond this zone (except as to highly migratory species), after February 28, 1977, unless the vessel has on board a valid permit issued by

the Secretary of Commerce, through the Secretary of State, pursuant to section 204 of this legislation. United States imports of certain foreign-produced fish and fish products shall be prohibited by the Secretary of the Treasury if the Secretary of State determines and certifies, among other things, that the foreign nation involved bars United States fishing vessels from its waters, subjects them to conditions and restrictions unrelated to fishery conservation and management, or seizes U.S. fishing vessels in violation of or without authorization under agreement (sec. 205).

Title III of the conference substitute establishes a national fishery management program for the conservation and management of fishery resources subject to exclusive U.S. fishery management authority. The provisions of this title follow the analogous provisions of the House bill and the Senate amendment and are premised upon the conclusion of the committee of conference that fishery resources must be conserved and managed in such a way as to assure that an optimum supply of food and other fish products, and that recreational opportunities involving fishing, are available on a continuing basis and that irreversible or long-term adverse effects on fishery resources are minimized.

Title III follows the House bill and the Senate amendment in setting forth certain national standards with respect to fishery conservation and management, which are to be applied by new Regional Fishery Management Councils and by the Secretary of Commerce in the preparation of fishery management plans and regulations. The conference substitute follows the Senate amendment in directing the Secretary of Commerce to establish guidelines based on these standards to assist in the development of a management plan for each fishery.

Eight Regional Fishery Management Councils are established, as follows, with the States listed in parenthesis as the constituent States thereof and with authority over the fisheries in the waters seaward of the States in the respective such regions:

New England Council (Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut).

Mid-Atlantic Council (New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia).

South Atlantic Council (North Carolina, South Carolina, Georgia, Florida).

Caribbean Council (Virgin Islands, Puerto Rico).

Gulf Council (Texas, Louisiana, Mississippi, Alabama, Florida).

Pacific Council (California, Oregon, Washington, Idaho).

North Pacific Council (Alaska, Washington, Oregon) (with authority over the fisheries in the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska).

Western Pacific Council (Hawaii, American Samoa, Guam).

Each Council shall have voting and nonvoting members. The voting members shall be the principal State official with marine fishery management responsibility and expertise in each constituent State; the regional director of the National Maritime Fisheries Service for the geographical area concerned; and a specified number of members required to be appointed by the Secretary of Commerce from lists of

qualified individuals submitted by the Governors of the constituent States. The nonvoting members shall be representatives of the United States Fish and Wildlife Service, of the Coast Guard, of the Marine Fisheries Commissions, and of the Department of State.

Each Council is directed to prepare a fishery management plan for each fishery within its geographical area of authority, with respect to any fish over which the United States exercises exclusive fishery management authority. The required (sec. 303(a)) and discretionary (sec. 303(b)) provisions of each such plan are described in detail. A Council-prepared plan may include such proposed regulations as the Council deems appropriate to carry out such plan (sec. 303(c)). It is mandatory, *inter alia*, that each fishery management plan require the submission of catch statistics and other pertinent data to the Secretary of Commerce, but the conference substitute follows the House amendment in providing that such statistics shall be confidential and only released in an aggregate or summary form which does not disclose the identity or business of the persons making such submissions (sec. 303(d)). Each fishery management plan shall, *inter alia*, (1) specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery involved, and (2) assess and specify the capacity and extent to which U.S. fishing vessels will harvest such optimum yield and the portion of such optimum yield which will not be so harvested and which can be made available for foreign fishing (sec. 303(a)(3) and (4)). Amendments to such fishery management plans may include any matters with respect to the fishery involved which may be included in such a plan, including revised assessments and specifications as to optimum yield and the portion thereof which can be made available for foreign fishing.

The Secretary of Commerce is directed to review and either approve, partially disapprove, or disapprove each fishery management plan submitted to him (and any amendment to an existing such plan). In the case of partial disapproval or disapproval, the Secretary shall return the plan to the originating Council with a request for corrective amendments. The Secretary's review shall be designed to determine whether the fishery management plan is consistent with the national standards for fishery conservation and management, the other provisions and requirements of this legislation and any other applicable law. In carrying out such review, the Secretary shall consult with the Secretary of State, (as to foreign fishing) and with the Secretary of the department in which the Coast Guard is operating (as to enforcement at sea). If no fishery management plan is submitted by the appropriate Council within a reasonable period of time, or if corrective amendments to a partially-disapproved or disapproved plan are not submitted within 45 days after notification, the Secretary of Commerce is authorized to prepare the appropriate plan or amendment.

As soon as practicable after the Secretary (1) approves a Council-prepared fishery management plan or (2) prepares such a plan, he shall publish such plan or amendment in the Federal Register together with any regulations which he proposes to promulgate in order to implement it. After a 45-day period for the submission of written data, views, or comments thereon, the Secretary shall implement the plan or amendment and promulgate such regulations, unless the Secretary

schedules a hearing in accordance with 5 U.S.C. 553, on such plan, amendment, and regulations, in which case implementation and promulgation shall take place as soon as practicable after the hearing.

The general responsibility for the carrying out of fishery management plans rests with the Secretary of Commerce (sec. 305(g)), although, with respect to enforcement of the provisions of this Act and of any regulation or permit issued under this Act, that responsibility is shared with the Secretary of the department in which the Coast Guard is operating (sec. 311(a)).

The conference substitute follows the Senate amendment in directing the Secretary of Commerce to initiate and maintain a comprehensive program of fishery research to carry out and further the protection, conservation, and enhancement of United States fishery resources (sec. 304(a)).

The conference substitute follows the House bill in providing for a limited exception to the principle (contained in both the House bill and the Senate amendment) that nothing in this legislation shall extend or diminish the jurisdiction of any State. The conference substitute also specifies that no State may directly or indirectly regulate any fishing which is engaged in by any fishing vessel outside its boundaries, unless such vessel is registered under the laws of such State. The exception in section 306(b) would authorize the Federal government to regulate a fishery (which is predominantly located in waters outside a State's boundaries but in which some fishing occurs within such boundaries) within a State's boundaries if (1) a hearing is held; and (2) the Secretary finds on the basis of the hearing record that any State has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of a fishery management plan covering such fishery. State regulation would be reinstated as soon as the Secretary finds that the reasons for which Federal regulation was assumed no longer prevail.

The conference substitute contains provisions on prohibited acts, civil penalties, criminal offenses, civil forfeiture, and enforcement, which follow the comparable provisions of the House bill or the Senate amendment, or both.

Title IV of the conference substitute follows the House bill in amending the Fishermen's Protective Act, the Marine Mammal Protection Act of 1972, and the Atlantic Tunas Convention Act of 1975; follows the Senate amendment in repealing the Act of May 20, 1964 (better known as the Bartlett Act) (its substantive provisions are incorporated in the conference substitute), and follows the House bill and the Senate amendment in repealing the Act of October 14, 1966.

Appropriations are authorized to the Secretary to carry out the provisions of this legislation, in the following amounts: \$5 million for the balance of the current fiscal year; \$5 million for the transitional fiscal quarter ending September 30, 1976; \$25 million for the fiscal year ending September 30, 1977; and \$30 million for the fiscal year ending September 30, 1978.

ACKNOWLEDGEMENTS

The conferees wish to acknowledge the extraordinary efforts invested in the development of this legislation by its original sponsors—Senator

Warren G. Magnuson and Representative Gerry E. Studds—and by Senator Ted Stevens and Representatives Leonor K. Sullivan, Robert L. Leggett, and Edwin B. Forsythe, the other co-sponsors of the legislation, and the members of the committees involved.

SECTION-BY-SECTION DISCUSSION

Section 2. Findings, purposes, and policy

This section follows the analogous provisions of both the House bill and the Senate amendment, with modifications to reflect more precisely the provisions of the conference substitute.

Section 3. Definitions

This section defines the various terms used throughout the conference substitute. The definitions follow, except for minor technical and clarifying changes made necessary by reason of the conference agreement, the pertinent definitions in the House bill and the Senate amendment. Where appropriate to this statement, particular definitions are discussed in relation to the major substantive provisions to which they relate.

The conference substitute follows the House provision and omits the Trust Territory of the Pacific Islands from the coverage of the legislation since it is operated by the United States pursuant to the terms of a trusteeship agreement with the United Nations and is not considered to be a possession of the United States.

The conference committee would like to make it clear that inclusion of American Samoa and Guam within the definition of State would not, and is not intended to, affect the Treasury Department's interpretation of the Nicholson Act (46 U.S.C. 251-252) with regard to American Samoa and Guam.

TITLE I—FISHERY MANAGEMENT AUTHORITY OF THE UNITED STATES

Section 101. Fishery conservation zone

This section establishes, and defines the boundaries of, the "fishery conservation zone" of the United States. Its inner boundary is a line coterminous with the seaward boundary of each of the coastal States of the United States (the term "State" is defined to include, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other U.S. Commonwealth, territory, or possession) and its outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured. The term "seaward boundary" when used in reference to a coastal state has the same meaning as is given to such term in the Submerged Lands Act of 1953 (43 U.S.C. 1301(b)). This provision of the conference substitute is similar to provisions in both the House bill and the Senate amendment.

Section 102. Exclusive fishery management authority

This section follows the substance of the House bill and the Senate amendment in directing the United States to exercise exclusive fishery management authority in the manner provided in this Act over—

(1) All fish within the fishery conservation zone (the definition of "fish" in section 3(6) does not include highly migratory species);

(2) All anadromous species of fish spawned in the fresh or estuarine waters of the United States throughout their migratory range beyond the fishery conservation zone (except when they are found in a foreign nation's territorial sea, fishery conservation zone, or the equivalent to the extent that either is recognized by the United States); and

(3) All Continental Shelf fishery resources of the United States beyond the fishery conservation zone.

It should be noted that the definition of "fishing" in section 3(10) does not include scientific research conducted by a scientific research vessel. The conference committee does not consider the conducting of tests of fishing gear to be scientific research within the meaning of the bill.

Section 103. Highly migratory species

This section follows the House bill and the Senate amendment in providing that the exclusive management authority of the United States shall not include, or be construed to extend to, highly migratory species of fish. Highly migratory species are defined in section 3(15) to mean species of tuna which, in the course of their life cycle, spawn and migrate over great distances in waters of the ocean. Since there is no justification for coastal nation jurisdiction over such species, this section declares them subject to management pursuant to international fishery agreements established for that purpose. The conferees believe that current international fishery agreements which regulate tuna are not functioning as adequately as they should, and should be supplemented by stronger international tuna fishery agreements.

Section 104. Effective date

The effective date of this title is March 1, 1977. The effective date of the comparable provision of the House bill was July 1, 1976, and the effective date of the comparable provision of the Senate amendment was July 1, 1977 for enforcement as to violations. By adopting the effective date of March 1, 1977, for this title, the conferees have provided for a period of transition between passage of the Act and full operation of the provisions of title I. The conferees expect this transition to the new regime established in the Act to occur through negotiations between the United States and affected nations, as described in title II of the Act.

TITLE II—FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS

Section 201. Foreign fishing

This section follows the House bill and the Senate amendment in allowing, and setting prerequisites for and conditions on, foreign fishing for fish subject to the exclusive fishery management authority of the United States.

Section 201(a) prohibits foreign fishing within the fishery conservation zone established by section 101 or for anadromous species or Continental Shelf fishery resources beyond this zone, unless it is authorized by an existing international fishery agreement (including a treaty), as provided in section 201(b), or by a governing international fishery agreement, as provided in section 201(c). In addition, the reciprocity requirement of section 201(f) must be satisfied, and each fishing vessel of the foreign nation so authorized must have a valid and applicable permit issued for that vessel under section 204, and fish in accordance with the conditions and restrictions of such permit.

Section 201(b) authorizes such foreign fishing to be conducted pursuant to an existing international fishery agreement (other than a treaty) until such time as that agreement expires or pursuant to an existing international fishery agreement treaty until such time as that treaty is renegotiated (to conform it to the purposes, policy, and provisions of his legislation) or ceases to be of force and effect as to the United States.

Section 201(c) authorizes such foreign fishing to be conducted pursuant to a governing international fishery agreement (which is not a treaty) if such agreement is entered into pursuant to this subsection and if it becomes effective following application of section 203 (congressional oversight). The committee on conference intends that governing international fishery agreements will be the primary mechanism through which foreign fishing is authorized. One of the purposes of this agreement is to acknowledge the exclusive fishery management authority of the United States as set forth in this legislation.

It is stated to be the sense of Congress that any such agreement shall set forth certain terms and conditions; *inter alia* (1) that each foreign nation and its vessels will abide by all regulations promulgated by the Secretary of Commerce implementing this Act and any applicable fishery management plan; (2) that each foreign nation and its vessels will abide by all applicable enforcement procedures; (3) that each foreign nation and its vessels will adhere to all requirements for observers to enforce the Act and will pay the cost for such observers; (4) that each foreign nation and its vessels prepay any license fee to the United States; (5) that each foreign nation and its vessels have appointed agents on whom legal process can be served; (6) that each foreign nation will assume responsibility for reimbursement of United States citizens for any loss or damage of their fishing gear or catch caused by any fishing vessel of such nation.

Subsection (a) provides that fishing by foreign nations is limited to that portion of the optimum yield of any fishery subject to the fishery management authority of the United States which will not be harvested by vessels of the United States. The conference committee intends that, in determining whether U.S. fishermen "will not" harvest an optimum yield, the Councils are to give consideration to both the desire and capacity of U.S. fishermen to harvest such yield. Both the optimum yield and the "surplus" to be made available for foreign fishing are to be determined by the appropriate Regional Fishery Management Council or by the Secretary in fishery management plans and amendments to such plans.

Within the total allowable level, of foreign fishing in any fishery, allocations must be made among the various foreign nations interested

in such fishing. Section 201(c) provides that the Secretary of State, in cooperation with the Secretary of Commerce, shall allocate, among foreign nations, the total allowable catch for foreign nations on the basis traditional fishing and other specified factors.

Traditional foreign fishing means long standing, active, and continuous fishing for a particular stock of fish by citizens of a particular foreign nation. Traditional or historic foreign fishing was recognized in the Act of October 16, 1966 (80 Stat. 908), which created the existing nine-mile contiguous fishery zone. Whether any nation has traditionally fished must be determined on a case-by-case basis. Nations which only recently began to fish clearly have not traditionally fished. However, nations whose fishermen have continually fished on a particular stock for a substantial number of years in compliance with any applicable fishery treaties or domestic law would have a strong case for a preference for an allocation of the total allowable level of foreign fishing.

Section 201(f) provides that any nation which seeks fishing authority from the United States must satisfy the Secretary of Commerce and the Secretary of State that it extends substantially the same fishing privileges to fishing vessels of the United States, if any, as the foreign nation is seeking from the United States.

The Secretary is required, by section 201(g), to prepare a preliminary fishery management plan for any fishery if the Secretary determines that no fishery management plan for that fishery will be prepared and implemented before March 1, 1977, accordance with 5 U.S.C. 553, interim regulations. They would be applicable, after March 1, 1977 to foreign fishing in fisheries subject to U.S. authority and would remain in effect until a fishery management plan, prepared by the appropriate Regional Fishery Management Council, is reviewed, approved, and implemented pursuant to the provisions of this Act. The conferees do not intend that this power be used to interfere with, or to preempt, the functions of the Councils in any way. Interim regulations promulgated by the Secretary to implement a preliminary fishery management plan would remain in effect until regulations implementing any fishery management plan are promulgated under section 305.

Section 202. International fishery agreements

Neither the House bill nor the Senate amendment calls for the abrogation of existing international fishery agreements. The conference substitute preserves this intent and requires the Secretary of State, in cooperation with the Secretary of Commerce, to enter into negotiations with any nation to conform any agreements to the provisions of the Act. In addition the conference substitute follows the House bill and Senate amendment in directing the Secretary of State, at the request of and in cooperation with the Secretary of Commerce, to enter into negotiations on behalf of United States fishermen who wish to fish within the fishery conservation zone (or for anadromous species or Continental Shelf fishery resources) of any other nation and to seek agreements for the management and conservation of anadromous species and highly migratory species.

At present, the United States is a party to 23 bilateral or multilateral treaties and executive agreements. Many are short-lived execu-

tive agreements, negotiated for only one or two years, although in many cases they have been renewed or extended continuously over much longer periods of time. Others are treaties within the meaning of section 2 of Article II of the Constitution.

Section 202(b) directs the Secretary of State, in cooperation with the Secretary, to initiate (promptly after the date of enactment of this legislation), the renegotiation of any treaty which pertains to foreign fishing in waters which will fall within the fishery conservation zone, or to fishing for anadromous species or Continental Shelf fishery resources, in order to conform to the provisions of any such treaty to the purposes, policy, and provisions of this Act. Such renegotiation, in the opinion of the committee of conference, would include the filing of notices of intent to withdraw from the International Convention for the Northwest Atlantic Fisheries (ICNAF) and similar such treaties, in accordance with the provisions of such treaties, so that the withdrawal of the United States from such treaties will become effective by March 1, 1977 if such treaties have not been renegotiated to conform with this Act by that date.

Section 202(c) provides that no international fishery agreement (other than a treaty) which is in effect on June 1, 1976 and which pertains to foreign fishing for U.S. fishery resources shall be renewed, amended, or extended, except in accordance with section 201(c) of the Act (which provides for governing international fishery agreements). Application of this particular provision in the Act is delayed until June 1, 1976, in order to permit the continuation of existing arrangements with Canada. Section 202(d) authorizes the Secretary of State, in cooperation with the Secretary, to initiate and conduct negotiations with any adjacent or opposite foreign nation to establish the boundaries of the fishery conservation zone of the United States in relation to any such nation. The immediate and primary concern should be the boundaries with Mexico, Canada, the Soviet Union, and certain Caribbean nations.

Section 202(e) states that it is the sense of Congress that the United States shall not recognize the claim of any foreign nation to a fishery conservation zone (or the equivalent), if (1) such nation fails to consider and take into account the traditional fishing activities of the United States with respect to any fish over which such nation asserts exclusive management authority, (2) fails to recognize and accept that highly migratory species are to be managed by the applicable international fishery agreement, whether or not such nation is party to such agreement, or (3) such nation imposes on fishing vessels of the United States conditions which are unrelated to fishery conservation and management. This provision follows the Senate language in requiring that the U.S. will not recognize jurisdictional claims by any other nation which go beyond that reasonably necessary for management of fishing and which unreasonably exclude fishing by vessels of the United States.

Section 203. Congressional oversight of governing international fishery agreements

This section follows the House bill in providing for Congressional oversight of, and authority to disapprove, certain international fishery agreements. All international fishery agreements provided for in

section 201(c) must be referred by the President to Congress for a period not to exceed 60 calendar days of continuous session of the Congress after the date of transmittal. No such agreement shall become effective until after the 60-day period. During this 60-day period, the Congress may review such an agreement and, if desired, proceed to consider a joint resolution of either House, the effect of which would be to prohibit the entering into force and effect of such an agreement as transmitted to the Congress.

This section spells out in some detail (1) the process involved in transmitting the documents to Congress; (2) referral to the House Committee on Merchant Marine and Fisheries and the Senate Committees on Commerce and Foreign Relations; (3) the method by which the 60 calendar day period will be computed; (4) the nature of the joint resolution which the Congress can consider with regard to agreements; (5) the time for reporting a "fishery agreement resolution"; and (6) the Congressional procedures involving the rules of the House and Senate for consideration of a joint resolution to disapprove a governing international fisheries agreement.

Section 204. Permits for foreign fishing

Section 204 follows the House bill and the Senate amendment in setting forth the procedure to be followed to allow for fishing by foreign vessels in the fishery conservation zone or for anadromous species or Continental Shelf fishery resources beyond such zone. Under section 204(a), no foreign vessel will be permitted to engage in fishing within the fishery conservation zone established by section 101, after March 1, 1977, for any species, except highly migratory species, unless that vessel has on board a valid permit issued by the Secretary under this section. Such a permit will also be required in order for a foreign vessel to fish for anadromous and Continental Shelf fishery resources beyond the fishery conservation zone of the United States.

Section 204(b) sets forth the requirements, procedures, and applicable provisions for the application for and issuance of foreign fishing permits under governing international fishery agreements. Each foreign nation which has entered into such an agreement with the United States shall apply each year for permits for all fishing vessels operating under its flag that wish to engage in any fishing within the U.S. fishery conservation zone or, beyond such zone, for U.S. anadromous species or Continental Shelf fishery resources (para. (1)). The application and permit forms are to be prescribed by the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating (para. (2)). The permit forms will have to be designed in such a way that the issued permit can be "prominently displayed" in the wheelhouse of the vessel for which it is issued, that it contains, in a form suitable for examination by enforcement officers, a statement of all of the conditions and restrictions that are attached to it and which govern fishing by that vessel for fish subject to exclusive U.S. fishery management authority; and that it contains appropriate space for a record of any citations issued under section 311(c) (and a statement of any such citations issued under any previous permits issued for that vessel).

Paragraph (3) specifies the minimum subject-matter content for an application for such permits. Paragraph (4) provides that the Secretary of State shall, when satisfied that a permit application complies with these content requirements, publish the application in the Federal Register and transmit it to the Secretary of Commerce, the Secretary of the department in which the Coast Guard is operating, the appropriate Regional Fishery Management Councils, and designated committees of Congress. Within 45 days after it receives such an application, the applicable Regional Fishery Management Council may comment, as it deems appropriate regarding the application (para. (5)). Such comments may include recommendations regarding approval and suggested conditions and restrictions on the fishing contemplated by the application.

The Secretary of Commerce is required to consult with the Secretary of State and the Secretary of the department in which the Coast Guard is operating about each such application. After taking into consideration the views and recommendations of these officers and those submitted by any of the Councils, the Secretary may approve the application if he determines that the fishing described in the application will meet the requirements of this legislation (para. (6)). After such approval the Secretary of Commerce shall establish specific conditions and restrictions which shall be included in permits issued pursuant to that application (para. (7)). Paragraph (8) directs the Secretary to transmit a copy of each approved application together with all conditions and restrictions imposed on the application to the Secretary of State, to the Coast Guard, to any Regional Fishery Management Council which has authority over any fishery specified in that application, and to designated committees of Congress. Paragraph (9) provides that the Secretary shall promptly inform the Secretary of State in the event that he does not approve such an application; the Secretary of State shall notify that nation of the disapproval and the reasons for the disapproval and shall inform that nation that it may submit a revised application at any time. "Reasonable" fees are to be paid to the Secretary of Commerce by any foreign fishing vessel for which such a permit is issued. The Secretary, in consultation with the Secretary of State, shall establish and publish a schedule of such fees. These fees must apply without discrimination with respect to any foreign nation and, in determining the amount of the fees, the Secretary may take into account the cost of management, research, administration, enforcement, etc. (para. (10)). As soon as a foreign nation notifies the Secretary of State that it accepts the conditions and restrictions established with respect to its approved application, and upon payment of the applicable fees, the Secretary shall (through the Secretary of State) issue permits for the appropriate fishing vessels of that nation (para. (11)).

Paragraph (12) deals with sanctions relating to permits issued under this subsection (i.e. under a governing international fishery agreement). If a fishing vessel of a foreign nation holding such a permit is used in the commission and any act prohibited by section 307, or if overdue criminal penalties under section 309 or overdue civil penalties under section 310 (pertaining to that vessel) have not been paid, the Secretary may revoke the permit (and may bar future per-

mits for a specified number of years); may suspend the permit for an appropriate period of time; or may impose additional conditions and restrictions on all of the permits issued to the nation under whose flag that vessel operates. The Secretary is not required to give notice or hold any kind of hearing prior to such permit revocation, suspension, or modification since a hearing will already have been held to determine whether the vessel was in fact used in the commission of a prohibited act (or in the assessment of a civil penalty under section 308(a) or the imposition of a criminal penalty under section 309). If a permit is suspended for nonpayment of a civil penalty, the permit must be reinstated upon payment of that penalty plus interest.

Section 204(c) is the comparable subsection with respect to fishing subject to exclusive U.S. fishery management authority pursuant to an existing international fishery agreement or treaty, to cover the period until that agreement expires or that treaty is renegotiated and is replaced by a governing international fishery agreement under section 201(c). Each fishing vessel of a foreign nation fishing under such an existing agreement or treaty will be issued a "registration permit," upon application, if it wishes to engage in any fishing within the fishery conservation zone of the United States or for anadromous species or Continental Shelf fishery resources of the U.S. beyond that zone. Each registration permit shall set forth the terms and conditions of the international fishery agreement or treaty involved. A registration permit is also subject to the requirement that it be prominently displayed in the wheelhouse of the fishing vessel for which it is issued. The Secretary of State, after consulting with the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form and manner in which applications may be made for registration permits, and the form thereof. Fees may be charged for registration permits, but the cost may not exceed the administrative cost of issuing them.

Section 205. Import prohibitions

This section directs the Secretary of State and the Secretary of the Treasury, respectively, to take certain actions in the event the Secretary of State finds that any foreign nation (1) refuses to negotiate or fails to negotiate in good faith to achieve an agreement with the United States, pursuant to which United States fishing vessels could continue to fish for fish subject to such foreign nation's fishery management jurisdiction in accordance with their fishing practices and under conditions and restrictions equivalent to the conditions and restrictions prescribed by the United States for foreign fishing vessels; (2) refuses to allow U.S. fishing vessels to engage in fishing for highly migratory species in accordance with an applicable international fishery agreement; (3) fails to comply with its obligations under any existing agreement concerning fishing by United States fishing vessels for fish subject to such foreign nation's fishery management jurisdiction; or (4) seizes any vessel of the United States while it is fishing in waters beyond that foreign nation's territorial sea under circumstances not recognized by the United States or authorized under international law or an agreement with the United States. In any such case, the Secretary of State shall certify such determination to the Secretary of the Treasury. Upon receipt of such a certification, the Secretary of the Treasury shall immediately impose import restric-

tions on fish and fish products from the foreign fishery involved or, upon the Secretary of State's recommendation, on other fish or fish products of such foreign nation. Such a prohibition on imports shall be removed when the Secretary of State finds and notifies the Secretary of the Treasury that the reasons for the imposition of such prohibition no longer prevail. This section follows from a provision in the House bill.

It is the intent of the committee of conference that, for purposes of an import prohibition under this section, all fish which are caught by fishing vessels of the United States are fish or fish products of the United States (regardless of where such fish are caught or off-loaded) and not fish or fish products of the foreign nation involved. Naturally, the owner or operator of such United States flag vessels would be expected to assist the Secretary of the Treasury in identifying fish or fish products as fish caught by the United States flag vessels.

TITLE III—NATIONAL FISHERY MANAGEMENT PROGRAM

Section 301. National standards for fishery conservation and management

This section requires that fishery management plans prepared under this Act and regulations promulgated to carry out such plans be consistent with seven specified national standards for fishery conservation and management. These standards, or basic objectives for a viable conservation and management program for the Nation's fishery resources, are designed to assure that management plans and regulations take into account the variability of fish resources, the individuality of fishermen, the needs of consumers, and the obligations to the general public, now and in generations to come. The first of these national standards is regarded by the conferees as being of particular importance. It declares that conservation and management measures shall be designed, implemented, and enforced to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery. The term "optimum" is defined in this context (in section 3(18)) to mean the amount of fish from a fishery which, if produced, will provide the greatest overall benefit to the Nation (especially in terms of food production and recreational opportunities) and which is prescribed for that fishery on the basis of the maximum yield sustainable therefrom (a biological measure) as modified by any relevant economic, social, or ecological factor. Except for technical drafting and clarifying changes, this requirement and these standards are the same as those set forth in both the House bill and the Senate amendment.

Subsection (b) of this section follows the Senate amendment in directing the Secretary of Commerce to establish guidelines, based on these national standards, to assist in the development of fishery management plans. In establishing these guidelines, the Secretary shall coordinate the work of the Department of Commerce with formal and informal participation by industry representatives and other knowledgeable and interested individuals.

Section 302. Regional fishery management councils

This section directs the establishment, within 120 days after the date of enactment of this legislation, of eight Regional Fishery Manage-

ment Councils, as previously described in the "Summary and Description" part of this statement. The House bill and the Senate amendment each provide for the establishment of only seven such councils—the House bill did not provide for a separate Caribbean Council and the Senate amendment did not provide for a separate New England Council. The conference substitute includes both as separate entities, for a total of eight such councils.

Although similar in structure, purpose, and function, the eight Fishery Management Councils vary in size in terms of the total number of voting members and the number appointed by the Secretary from lists of qualified individuals recommended by the Governors of the constituent States, as follows: New England Council (17; 11); Mid-Atlantic Council (19; 12); South Atlantic Council (13; 8); Caribbean Council (7; 4); Gulf Council (17; 11); Pacific Council (13; 8); North Pacific Council (11; 7, 5 of whom shall be appointed from Alaska and 2 from Washington); Western Pacific Council (11; 7). The voting members appointed by the Secretary from lists of qualified individuals shall serve for 3-year terms, except that the terms of the initial such members shall be staggered. The voting members of the Councils who are not government employees shall be compensated on a daily basis at the GS-18 rate and all voting and certain non-voting members shall be reimbursed for actual expenses incurred in the performance of duties for the Councils.

Each council shall conduct all meetings and hearings within the geographical area of concern. In the case of the North Pacific Council "in geographical areas of concern" means within the State of Alaska.

Council decisions shall be by majority vote of the members present and voting, with a majority of the voting members constituting a quorum. The voting members of each Council shall select one of their number to serve as Chairman, and each Council shall meet at the call of its Chairman or by request of a majority of its voting members. In case of disagreement, a disagreeing Council member may submit a statement thereof, with reasons, to the Secretary. Each Council is authorized to appoint and obtain staff and administrative support and other services, and it is charged to determine, prescribe, and publish its organization, practices, and procedures. Each Council is directed to establish a scientific and statistical committee and such other advisory panels as are necessary or appropriate.

Each Regional Fishery Management Council is authorized and directed, *inter alia*, to develop fishery management plans and amendments to such plans; to submit periodic and other reports to the Secretary of Commerce; to continually review and revise assessments as to optimum yield and allowable foreign fishing; and to conduct other necessary and appropriate activities, with respect to the management and conservation of the fisheries over which it has authority.

Each Council shall conduct public hearings with respect to the development of fishery management plans and amendments, and with respect to the administration and implementation of the provisions of this legislation. Each Council is directed to establish scientific and statistical committees and necessary advisory panels to assist in the development or amendment of any fishery management plan. Each advis-

ory panel shall be composed of persons who are either actually engaged in the harvest of, or are knowledgeable and interested in the conservation and management of, the applicable fishery or group of fisheries. The regional Councils and their committees and panels should receive maximum public input. The provisions of the Federal Advisory Committee Act apply, and therefore meetings must be open to the public, with few exceptions. Each Council shall conduct all meetings and hearings within its geographical area of concern. In the case of the North Pacific Council, "in the geographical area of concern" means within the State of Alaska.

The foregoing provisions follow the House bill or the Senate amendment, or both.

Section 303. Contents of fishery management plans

This section specifies the contents of a fishery management plan.

Each fishery management plan is required to include, with respect to the fishery involved—

(1) necessary management measures governing foreign and domestic fishing, which must be consistent with the national standards and other applicable law;

(2) a complete description of the fishery, including gear, species, location, management costs, revenue, recreational interests, and existing foreign and Indian harvesting rights;

(3) an assessment and specification of the fishery's present condition, probable future condition, maximum sustainable yield, and optimum yield, and an assessment and specification of the capacity and desire of the U.S. fishing fleet to harvest this optimum yield and the portion of this optimum yield which will not be so harvested and can be made available to foreign fleets;

(4) specification of pertinent statistics which must be submitted to the Secretary on fishing effort, gear, species taken, and locations of activity; and

In addition, Councils may, at their discretion, include—

(1) a permit requirement for each vessel engaged in the fishery;

(2) designations of the manner in which fishing shall be limited by zones, vessels, or gear;

(3) catch limitations based on area, species, size, number, weight, sex, or other criteria;

(4) prohibitions on types of gear, vessels, or equipment, and requirements for utilization of devices facilitating enforcement;

(5) to the extent practicable, measures for conservation and management presently employed by the nearest States;

(6) creation of a limited entry system, based on past participation, economic dependence, existing investments, and other factors, provided that a majority of the Council Members present and voting (of the Council concerned) agree; and

(7) any other provisions which are determined to be necessary for the conservation and management of the fishery.

Councils may also propose regulations necessary to implement fishery management plans.

This section also requires that statistics submitted by the Secretary pursuant to a management plan must not be released to the public in the form of individual records unless pursuant to court order.

The House and Senate provisions for this section were not mutually exclusive and the foregoing provisions utilize parts of both versions.

The required provisions of section 303(a) were taken from the Senate amendment while the discretionary provisions were from the House bill. The proposed regulations in section 303(c) follow the House bill. The provision regarding confidentiality of statistics in section 303(d) is also largely from the House bill, although both the House bill and the Senate amendment were similar on the subject of statistical requirements.

In any case in which a fishery extends beyond the geographic area of authority of any one Council, the Secretary (1) may designate which Council shall prepare the fishery management plan for such fishery, or (2) may require that such plan be prepared jointly by the Councils concerned (sec. 304(f)). The House bill provided for the Secretary to designate which Council would prepare the management plan, and the Senate amendment directed the Councils concerned to coordinate or combine their efforts.

Section 304. Action by the Secretary

Section 304 represents an amalgam of the House and Senate versions.

Section 304(a) provides that within 60 days after receiving a fishery management plan submitted by a Council, the Secretary must review the plan and notify the Council as to whether he approves, partially disapproves, or disapproves of the plan. A Council has 45 days to amend a plan wholly or partially disapproved.

Section 304(b) provides that, in reviewing a plan, the Secretary must examine it for consistency with the national standards, the provisions of the Act, and other applicable law. Consultation with the Secretary of State and with the Coast Guard is provided for where their areas of responsibility are affected.

Section 304(c) authorizes the Secretary of Commerce to prepare a fishery management plan or amendment if (1) a Council fails to prepare a plan for a fishery in need of conservation, or (2) if the Secretary partially or wholly disapproves of a plan submitted by a Council and the Council fails to make necessary changes. If the Secretary prepares his own plan, the Council has 45 days to recommend changes: thereafter, the plan is implemented by the Secretary. However, the Secretary is prohibited from preparing a plan which includes a limited entry system unless such system has been first approved by a majority of the voting members of each appropriate Council.

Section 304(d) directs the Secretary to set, by regulation, the level of any fees which may be charged under fishery management plans for U.S. fishing vessels. This level cannot exceed the Secretary's administrative costs in issuing these permits.

Section 304(e) directs the Secretary of Commerce to initiate and maintain a program of fisheries research. This new research effort is required to include, but need not be limited to, biological research concerning the interdependence of fisheries or stocks of fish, the impact

of pollution on fish, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

Section 305. Implementation of fishery management plans

This section sets forth the process for implementation of fishery management plans, including a period for written comment, authorization for hearings, judicial review, and emergency action and includes certain general provisions on the responsibility of the Secretary of Commerce to carry out such plans and to report thereon annually to the Congress and the President.

As soon as practicable after the Secretary approves a fishery management plan or amendment prepared by a Council, or prepares such a plan or amendment (in accordance with section 304), the Secretary is directed to publish that plan or amendment in the Federal Register along with any regulations he proposes to promulgate to implement that plan or amendment. The Secretary shall afford interested persons at least 45 days within which to submit, in writing, data, views, or comments with respect to the plan or amendment and the proposed regulations (sec. 305(a)). The terms "fishery management plan" and "regulations" are not used interchangeably in this Act. In this Act, the fishery management plan is the comprehensive statement of how the fishery is to be managed, including time and area closures, gear restrictions, and the like. "Regulations", as used in this Act, means the regulations promulgated to implement what is contained in the fishery management plan.

Section 305(b) authorizes the Secretary to schedule and conduct a public hearing under 5 U.S.C. 553 and any plan, amendment, or proposed implementing regulations and to postpone the effective date of the regulations pending such hearings. The conferees anticipate that the Secretary will not normally hold hearings on fishery management plans prepared by the Regional Fishery Management Councils inasmuch as the plans (and amendments thereto) are themselves the product of mandatory public hearings by the Councils. However, hearings may be appropriate in cases (1) in which written submissions are received asserting that the proposed regulations are inconsistent with the plan to be implemented thereby, (2) in which the plan was prepared by the Secretary himself under section 304(c), or (3) in which there are controverted issues of material fact.

Section 305(c) directs the Secretary to promulgate regulations to implement a fishery management plan, or an amendment to such a plan, after review and consideration of all matters raised in the written submissions and any oral presentations, if he finds that the plan or amendment is consistent with the national standards, the other provisions of this legislation, and any other applicable law.

Regulations to implement a fishery management plan are subject to judicial review under the Administrative Procedure Act (5 U.S.C. ch. 7) if a petition for judicial review of such regulations is filed within 30 days after the date of promulgation except that the reviewing court is without authority to enjoin the implementation of those regulations pending the judicial review and such regulations may only be set aside if found to be arbitrary and capricious. (see 305(c)).

Section 305(d) authorizes certain emergency actions to save fishery resources if the Secretary finds that any emergency involving any fish-

ery resources exist. Emergency regulations, or emergency amendments to a fishery management plan, are only effective for a maximum of 45 days with authority to repromulgate for one additional 45-day period. Emergency regulations are subject to judicial review on the same basis as implementing regulations.

The Secretary is directed to prepare, not later than March 1 of each year, an annual report of fishery conservation and management (sec. 305(e)), and he is given "general responsibility to carry out a fishery management plan or amendment" (sec. 305(f)), including the authority to promulgate regulations to discharge that responsibility or to carry out any other provision of this Act.

The implementation process provisions follow comparable provisions in the House bill and the Senate amendment, except that (1) the mandatory-hearing provision in the House bill (whenever objections are filed by a citizen who may be adversely affected or whenever requested by a State) is not included in the conference substitute in favor of an optional-hearing provision; and (2) the provisions in the Senate amendment establishing a 5-member, President-appointed "Fishery Management Review Board" to determine appeals from regulations promulgated by the Secretary is not included in the conference substitute in favor of judicial review.

Section 306. State jurisdiction

The conference substitute follows the House bill in providing for a limited exception to the principle (contained in both the House bill and the Senate amendment) that nothing in this legislation shall extend or diminish the jurisdiction of any State. The conference substitute also specifies that no State may directly or indirectly regulate any fishing which is engaged in by any fishing vessel outside its boundaries, unless such vessel is registered under the laws of such State. The exception in section 306(b) would authorize the Federal Government to regulate a fishery (which is predominantly located in waters outside a State's boundaries but in which some fishing occurs within such boundaries) within a State's boundaries if (1) a hearing is held; and (2) the Secretary finds on the basis of the hearing record that any State has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of a fishery management plan covering such fishery. State regulation would be reinstated as soon as the Secretary finds that the reason for which Federal regulation was assumed no longer prevail.

Section 307. Prohibited acts

This subsection sets forth the prohibited acts.

Under paragraph (1), it is unlawful for any person to violate any provision of this legislation or any regulation promulgated under this legislation: to violate any condition or restriction of a permit issued pursuant to this legislation or to fish upon revocation or during the suspension of such a permit; to violate any provision of a governing international fishery agreement entered into pursuant to this legislation; to refuse to permit any authorized officer to board a fishing vessel under such person's control for purposes of carrying out any search or inspection relating to the enforcement of this Act or of any regulation or permit issued under this Act; to use force to assault or

otherwise interfere with such an officer who is engaged in such a search or inspection or to resist a lawful arrest for any act prohibited by this subsection; or to ship, purchase, sell, etc., any fish taken or retained in violation of this Act or any regulation or permit issued under this Act. Under paragraph (2), it is unlawful for any foreign fishing vessel, or for its owner or operator to engage in fishing within the territorial waters of the United States or (unless such fishing is authorized by a permit issued pursuant to section 204) to engage in fishing within the fishery conservation zone or for anadromous species or for Continental Shelf fishery resources. This subsection follows the House bill and the Senate amendment and the Bartlett Act provisions are incorporated as part of this Act in view of the repeal of that statute.

Section 308. Civil penalties

This section empowers the Secretary of Commerce to levy a civil penalty against any person who is found, after notice and an opportunity for a hearing in accordance with 5 U.S.C. 554, to have committed an act prohibited by section 307. The amount of the civil penalty could not exceed \$25,000 for each violation, but each day of a continuing violation constitutes a separate offense for this purpose. The actual amount of the civil penalty would be at the discretion of the Secretary, after he has taken into consideration the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

If a civil penalty is assessed against any person under subsection (a) of this section, that person may seek review of the penalty in the appropriate Federal court by filing a notice of appeal within 30 days of such an order. If the Secretary's decision is not found to be supported by substantial evidence, as provided in 5 U.S.C. 706(2), the penalty shall be set aside by the court.

Subsection (c) requires the Attorney General of the United States to recover, in an action in an appropriate U.S. District Court, the amount of any assessed civil penalty after it has become a final and unappealable order or after judgment in favor of the Secretary in a review filed under subsection (b). In such an action by the Attorney General, the validity and appropriateness of the final order imposing the civil penalty would not be reviewable by the district court.

Subsection (d) authorizes the Secretary to compromise, modify, or remit any civil penalty which may be or has been imposed.

This section follows the House bill.

Section 309. Criminal offenses

Criminal offenses are provided for certain prohibited acts, as follows:

A person who refuses to permit an authorized enforcement officer to board, for purposes of inspection, a fishing vessel under his control; who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any such officer who is engaged in such an inspection; or who resists a lawful arrest for any act prohibited under section 307, shall be fined not more than \$50,000, or imprisoned for not more than 6 months, or both. If, however, such a person uses a deadly or dangerous weapon in the course of such conduct, he shall be fined not more than \$100,000 or imprisoned for not more than 10 years, or both.

A person who commits any act prohibited by section 307(2) shall be fined not more than \$100,000 or imprisoned for not more than 1 year, or both. This provision follows the Senate amendment and the criminal penalty provision currently in the Bartlett Act, which the conferees agreed to repeal (as proposed by the Senate amendment) following the incorporation of its pertinent substantive provisions, including this one, in the conference substitute.

Section 310. Civil forfeitures

Section 310(a) provides that any vessel (including its fishing gear, furniture, appurtenances, cargo, and stores) may be forfeited to the United States if it is used in any manner in connection with or a result of the commission of any act prohibited by section 307, and that all fish taken or retained in connection with or as a result of any such prohibited act shall be forfeited to the United States, under this section. Forfeiture, does not lie, however, if the relevant prohibited act was one for which the issuance of a citation under section 311(c) is sufficient sanction.

Any district court of the United States shall have jurisdiction, upon application by the Attorney General, to order any forfeiture authorized under subsection (a) and any seizure-related action authorized under subsection (a). (Sec. 310(b)).

Subsection (c) incorporates by reference, with respect to forfeiture under this section, the relevant provisions of the customs laws, except that the duties and powers involved shall be performed by officers or other persons designated by the Secretary of Commerce.

Subsection (d) prescribes the procedure to be followed when process in rem is issued under this Act. The execution of such process shall be stayed, and any fish seized in case of levy shall be released, upon the posting of a bond with security satisfactory to the court involved, conditioned upon delivery of the fish seized or the payment of the monetary value of such fish.

Subsection (e) follows the Senate amendment in specifying that it shall be a rebuttable presumption that all fish found on board a fishing vessel which is seized in connection with an act prohibited by section 307 were taken or retained in violation of this Act.

This section is an amalgam of pertinent provisions of the House bill and the Senate amendment.

Section 311. Enforcement

Section 311(a) provides that the responsibility for enforcing this legislation and any management regulations and fishing permits issued under this legislation rests with the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating (i.e., the Secretary of Transportation, in peacetime). The two Secretaries are authorized to employ for this purpose not only the resources of their respective departments but also, by agreement on a reimbursable or other basis, the personnel, services, equipment, and facilities of any other Federal agency and of any State agency. The conference substitute specifically provides that the utilizable equipment of other agencies includes aircraft and vessels and that the Federal agencies required to cooperate in such enforcement include all elements of the Department of Defense. With respect to State agencies, however, it is

the understanding of the conferees that State officers will be employed widely in assisting in the enforcement of this Act; however, in general it is expected that such State officers will be employed primarily in areas proximate to their own States and where Federal personnel are unavailable. The two Secretaries are required to report semiannually to the duly authorized committees of the Congress and to the Regional Fishery Management Councils on the degree and extent of compliance. Where indicated, these reports may include recommendations (i.e. for amendments to applicable fishery management plans) which may increase compliance, facilitate the detection of violators, or reduce delay.

Section 311(b) specifies the powers of any officer who is authorized to enforce the provisions of this Act, by the Secretary of Commerce, by the Secretary of the department in which the Coast Guard is operating, or by any agency which has entered into an enforcement agreement with the two Secretaries. Any such officer may, with or without a warrant, arrest any person upon reasonable cause to believe that such person has committed an act prohibited by section 307; board and search or inspect any fishing vessel subject to the fishery management authority of the United States; seize any fishing vessel used or employed in the violation of any provision of this Act; seize any fish taken or retained in violation of any such provision; and seize any other evidence related to any such violation. Any such officer may also execute any warrant or other process issued by any officer of court of competent jurisdiction and exercise any other lawful authority.

Subsection (c) provides for a less drastic sanction in cases of technical or minor violations. Instead of citing the master of fishing vessel for a violation of section 308(a), an authorized enforcement officer may issue a warning to the master of such vessel. Any such warning shall be noted by the officer on the permit issued to such vessel and a record of all such citations shall be maintained by the Secretary of Commerce. The two Secretaries shall, by jointly-issued regulations, provide guidelines for the use of this "citation" power as an alternative to arrest, seizure, forfeiture, etc.

Section 311(d) grants exclusive jurisdiction, and appropriate powers, over all cases arising under this legislation to the district courts of the United States.

Section 311(e) defines "provisions of this Act" and "violation" broadly for purposes of this section only. The remedies provided by this Act, however, are all tied to the commission of an act prohibited by section 307.

The conference substitute is a composite of the enforcement provisions of the House bill and the Senate amendment.

Section 312. Effective date of certain provisions

This section provides that the effective date of the enforcement-related provisions of title III (sections on prohibited acts, civil penalties, criminal offenses, civil forfeiture, and enforcement) shall be March 1, 1977. See above under section 104.

TITLE IV—MISCELLANEOUS PROVISIONS

Section 401. Effect of Law of the Sea Treaty

This section follows a provision in the House bill authorizing the Secretary of Commerce to promulgate such changes in regulations

under this Act as may be necessary or desirable to conform such regulations to the fishery management jurisdiction provisions of a comprehensive treaty, if any, resulting from the Third United Nations Conference on the Law of the Sea, if such treaty is ratified by the United States and in anticipation of its taking effect.

Section 402. Repeals

This section repeals, effective March 1, 1977, (1) the Act of October 14, 1966, which established the 9-mile contiguous zone, and (2) the Act of May 20, 1964, as amended, commonly known as the Bartlett Act, which prohibited certain foreign fishing. The conference substitute follows the House bill and the Senate amendment with respect to (1) and the Senate amendment with respect to (2).

Section 403. Fishermen's Protective Act Amendments

The conference substitute follows the House bill with respect to amending the Fishermen's Protective Act (Act of August 27, 1954).

The House bill provided for reimbursement resulting from the seizure of an American fishing vessel, if the vessel had fished in such nation's waters in the past, for the particular stock of fish involved. Concern was expressed by the committee of conference that such a provision might actually encourage seizures of American fishing vessels and that it would endorse fishing by American vessels in a foreign nation's waters under circumstances which would not be allowed with respect to fishing subject to the exclusive fishery management authority of the United States. The conference substitute authorizes such reimbursement only if the conditions and restrictions applied to U.S. vessels are more stringent than the conditions and restrictions applied to foreign fishing vessels by the United States.

Section 404. Marine Mammal Protection Act Amendment

This section follows the House bill in amending the term "waters under the jurisdiction of the United States" in the Marine Mammal Protection Act of 1972 to encompass the waters within the fishery conservation zone of the United States, as declared in title I of this legislation.

The provision amending the Marine Mammal Protection Act is not intended to alter U.S. obligations under any existing international agreement which applies to the taking of marine mammals, for example, those applying to whales or fur seals. The conferees desire also that the Secretary of State vigorously pursue the international program for marine mammal protection provided for in the Marine Mammal Protection Act. The amendment made by this section takes effect March 1, 1977.

Section 405. Atlantic Tunas Convention Act Amendment

This section follows the House bill in amending the term "fisheries zone" in the Atlantic Tunas Convention Act of 1975 to mean the fishery conservation zone of the United States, as declared and defined in title I of this legislation. The amendment takes effect March 1, 1977.

Section 406. Authorization of Appropriations

The House bill authorized the appropriation of "such sums as may be necessary" to carry out the purposes of this legislation. The Senate

amendment authorized the appropriation of a total of \$49.5 million (through September 30, 1977) to the Secretary of Commerce and a total of \$29.25 million (through September 30, 1977) to the Secretary of the department in which the Coast Guard is operating. The conference substitute authorizes the appropriation to the Secretary of Commerce of not to exceed (1) \$5 million for the fiscal year ending June 30, 1976, (2) \$5 million for the transitional fiscal quarter ending September 30, 1976, (3) \$25 million for the fiscal year ending September 30, 1977, and (4) \$30 million for the fiscal year ending September 30, 1978.

The committee of conference intends that this authorization of appropriations shall be in addition to, and not in substitution for, any other appropriations authorized for fisheries management, research, and development etc. While large, the sums involved are minute by comparison with the benefits attainable.

Authorizations for Coast Guard enforcement expenditures under this act will be included in the annual Coast Guard Authorization Acts.

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JOHN O. PASTORE,
ERNEST F. HOLLINGS,
EDMUND S. MUSKIE,
THOMAS J. MCINTYRE,
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TED STEVENS,
J. GLENN BEALL,
LOWELL P. WEICKER, Jr.,
BOB PACKWOOD,

Managers on the Part of the Senate.

LEONOR K. SULLIVAN,
JOHN D. DINGELL,
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GERRY E. STUDDS,
PHILIP E. RUPPE,
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Managers on the Part of the House.

SENATE COMMERCE COMMITTEE PRINT

February 19, 1976

CONFERENCE POLICY ISSUES SUMMARY

H.R. 200 (S. 961)

- A. MATTERS RELATED TO FISHERIES JURISDICTION AND
INTERNATIONAL AGREEMENTS
- B. MATTERS RELATED TO FISHERIES MANAGEMENT AND
CONSERVATION

Printed for the Use of the Committee of Conference

A. MATTERS RELATING TO FISHERIES JURISDICTION AND INTERNATIONAL AGREEMENTS

Subject	House	Senate	Pages on which text appears in comparative print
[Sec. 3(6)] 1. Definition of the term "fish".	The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than bird or marine mammals.	The term "fish" means all living marine organisms, including, but not limited to, finfish, mollusks, crustaceans, marine mammals, and all other forms of marine animal and plant life (but not including birds).	12.
[Sec. 10(1)] 2. Establishment of United States "zone".	A "fisheries conservation and management zone" is established contiguous to the territorial sea of the United States. The zone's outer (seaward) boundary is 200 nautical miles from the baseline from which the territorial sea is measured.	A "fishery conservation zone" of the United States is established contiguous to the territorial sea of the United States. The zone's outer (seaward) boundary is 200 nautical miles from the baseline from which the territorial sea is measured, and its inner boundary is a line formed by the seaward boundaries of the coastal States.	17.
[Sec. 3(21)] 3. Definition of United States and "State".	The term "United States" means all of the States thereof: "State" means, in addition to the 50 States, the District of Columbia, Puerto Rico, American Samoa, the Virgin Islands, Guam, and "the possessions of the United States".	The term "United States" includes all States: "State" means, in addition to the 50 States, the District of Columbia, Puerto Rico, American Samoa, the Virgin Islands, Guam, and "any other territories and possessions of the United States".	15.
[Sec. 10(2)] 4. Authority of United States with the zone.	The same exclusive rights in respect to fisheries in the zone as the United States has in its territorial sea.	Exclusive fishery management authority to be exercised in the manner provided in title II.	17, 18.
[Sec. 20(2)(C)] 5. Adjustment of boundaries of zone.	The President may establish a different seaward boundary for any portion of the zone if he determines that the 200 mile line conflicts with the territorial waters or fisheries zone of another country.	The Secretary of State shall negotiate with adjacent foreign nations to establish the boundaries of the zone in relation to any such nation.	18.
[Sec. 40(2)] 6. Relationship to existing fishery law.	The Act of October 14, 1966, which established the existing 12-mile fishery zone, is repealed. The Act of May 20, 1964 (the so-called Bartlett Act) is amended to conform it to the provisions of the House bill.	The Act of October 14, 1966, is repealed. The Act of May 20, 1964, is also repealed. The provisions of both Acts are incorporated into the Senate bill as appropriate. Foreign fishing in U.S. waters, except in the 197-mile fishery conservation zone, is prohibited.	19, 101.
[Sec. 10(2)(2)] 7. Authority of United States re anadromous species spawned in fresh and estuarine waters of the United States.	A fisheries management plan under this bill may apply to "any anadromous species in any area of the high seas" beyond the zone and to the extent it does it "shall be deemed to be a unilateral measure of conservation within the meaning of article 7 of the Convention on Fishing and Conservation of the Living Resources of the High Seas" (hereafter referred to as the "Convention"). No such plan may be in effect in this respect pending 6 months for negotiations by the Secretary of State.	Exclusive fishery management authority throughout the migratory range of each anadromous species spawned in the fresh and estuarine waters of the United States in the manner provided in title II, except that such management authority shall not extend to such species during the time it is within the territorial sea or fishery conservation zone of any other nation, as recognized by the United States.	27 to 29, 32.

A. MATTERS RELATING TO FISHERIES JURISDICTION AND INTERNATIONAL AGREEMENTS—Continued

Subject	House	Senate	Pages on which text appears in comparative print
[Sec. 102(3)] 8. Authority of United States re Continental Shelf fishery resources.	Nothing in this legislation shall be construed to extend the right or privilege to engage in fishing for any Continental Shelf species (as defined in section 5(a) of the Act of May 20, 1944) to any vessel which is not documented under the laws of the United States.	Exclusive fishery management authority over Continental Shelf fishery resources (as defined in section 3(5), to the depth at which such resources can be exploited, under existing law is continued.	30.
[Sec. 306] 9. Authority of States, vis-à-vis authority of the United States.	Nothing in this legislation shall be construed as extending the jurisdiction of any State to any natural resource beneath and in the waters of the zone; or as diminishing the jurisdiction of any State over any natural resource beneath and in its internal waters." The jurisdiction of any State with respect to any natural resource beneath and in the waters of the territorial sea of the United States may be diminished with respect to any anadromous species, coastal species, or Continental Shelf species if the Secretary of Commerce finds that a fishery management plan under this legislation applies to such a species and that such State "has taken any action, or omitted to take any action, the result of which will substantially and adversely affect the carrying out of the management plan." The State's authority shall be reinstated upon application and a finding that such reasons for Federal regulation no longer prevail.	Nothing in this legislation shall be construed to extend to jurisdiction of any State over any natural resources beneath and in the waters beyond its seaward boundaries, or to diminish the jurisdiction of any State over any natural resource beneath and in the waters within its boundaries. The Secretary of Commerce shall encourage cooperative action by the States and the enactment of improved and uniform State laws relating to the management and conservation of coastal and anadromous species of fish and Continental Shelf fishery resources.	18, 87.
[Sec. 104, 312] 10. Effective date of fisheries jurisdiction provisions.	July 1, 1976.	July 1, 1977, for enforcement as to violations.	19.
[Sec. 201] 11. Foreign fishing within the zone and for species under United States management.	No non-U.S. vessel may engage in fishing in the zone or beyond the zone for any anadromous species covered by a fishery management plan under this Act, unless the vessel has received a permit from the Secretary of Commerce. Any foreign nation may apply for such permits on behalf of vessels registered under its flag by application (containing specified information) to the Secretary of State (hereafter S/S). The S/S shall transmit each such application to the Secretary of Commerce (with his comments and recommendations) and to the Secretary of the Dept. in which the Coast Guard is operating. Tentative approval shall be granted upon a determination that the fishing activity proposed is consistent with this legislation and the national fisheries management standards, considering historical or traditional fishing pat-	The Secretary of Commerce and the Secretary of State, after consulting with the Secretary of the Treasury, may authorize foreign fishing (defined as fishing by a vessel other than a vessel of the United States) within the zone, for anadromous species spawned in United States, or for Continental Shelf fishery resources subject, where appropriate, to applicable management regulations, prohibitions, and enforcement under this Act. The allowable level of total foreign fishing under such authorizations shall be set upon the basis of the portion of the allowable catch of any fishery or stock of fish which cannot or will not be harvested by vessels of the United States; the annual allowed foreign fishing and the annual fishing by vessels of the United States shall not exceed the "optimum" yield for the fishery or stock in-	19 to 30. 16 (definition of "foreign fishing").

terms by the applicant nation. The approval shall include a statement of the conditions and restrictions which will apply thereto. Each application which is tentatively approved under these provisions shall be deemed "an international fisheries agreement" and shall be transmitted by the President to the Congress. If neither House of Congress disapproves such agreement by resolution within the first 60-day period after submission to Congress, and if the foreign nation involved accepts the conditions and restrictions, the necessary permits shall be issued. Such permits may be suspended or revoked for repeated violations of failure to pay assessments pursuant to this Act. Special provisions apply as to fishing for anadromous species seaward of the zone.

[Sec. 202(b)]

12. Treatment of existing international fisheries agreements.

No international fisheries agreement other than a treaty which is in effect on July 1, 1976, shall be extended or renewed except pursuant to this Act. The S/S shall initiate prompt renegotiation of pertinent treaties and shall submit annual reports to Congress starting May 15, 1976 on the results of such negotiations.

[Sec. 202(c)]

13. International negotiations and new international fisheries agreements.

The S/S, upon the request of and in cooperation with the Secretary of Commerce, shall negotiate with any foreign nation in whose fishery zones (or equivalent) vessels of the United States are engaged or wish to be engaged in fishing, or with respect to that nation's anadromous species of Continental Shelf fishery resources in order to conclude international fishery agreements permitting U.S. vessels equitable access, consistent with reasonable management and conservation practices.

involved. Traditional fishing activity shall be considered in determining the allowable level of foreign fishing for any particular nation.

No such foreign fishing may be authorized for any foreign nation which does not extend substantially the same privileges to vessels of the United States in its own area.

The Secretary of Commerce and the S/S may impose appropriate conditions on such foreign fishing, which shall be consistent with the management provisions of title II.

The S/S, in cooperation with the Secretary of Commerce, shall immediately review each treaty, convention, and other international agreement to determine whether their provisions are consistent with this Act; to the extent they are not, the S/S shall initiate negotiations to amend or terminate such agreements by Jan. 1, 1977.

The S/S, in cooperation with the Sec'y of Commerce, shall (1) negotiate with any foreign nation which, prior to the date of enactment of this Act, was engaged in or whose citizens wish to engage in fishing within the fishery conservation zone of the United States or for U.S. anadromous species or Continental Shelf fishery resources; (2) negotiate with any foreign nation in whose fishery conservation zone (or equivalent) vessels of the United States are engaged or wish to be engaged in fishing, or with respect to that nation's anadromous species or Shelf resources; and (3) negotiate with any foreign nation in whose zone anadromous species spawned in the fresh and estuarine waters of the United States are found (for the purpose of conservation), in order to conclude international fishery agreements to effectuate the purpose, policy, and provisions of this Act. These international agreements shall provide for the management and conservation of the species involved.

[Sec. 205]

If the S/S determines that any foreign nation is refusing to commence negotiations with the United States for new international fishery agreement—or determines that a foreign national is not complying with its obligations under an international fishery agreement, the S/S may certify that determination to the Secretary of the Treasury who shall take immediate action to prohibit the importation into the customs territory of the United States of any seafood product of that foreign nation. Such an import prohibition shall continue until the nation involved commences such negotiations or complies with its obligations under applicable agreements.

The S/S shall certify to the Secretary of the Treasury whenever he determines that an agreement affording U.S. vessels an appropriate portion of fish stocks cannot be reached with a particular foreign nation and that such nation has refused to negotiate, has failed to negotiate in good faith, or is not complying with its obligations under any existing agreement. The S/S shall also certify in case of any seizure of a U.S. fishing vessel by a foreign nation in violation of agreement. The Secretary of the Treasury shall thereupon prohibit the importation into the customs territory of the United States of any fish or fishery products from such nation, until an agreement is reached, the obligations are complied with, or the seized vessel is released.

14. Definitions of "optimum sustainable yield" and "optimum".

38 to 42 (provisions regarding Congressional review procedures).

31 to 32.

32 to 37.

A. MATTERS RELATING TO FISHERIES JURISDICTION AND INTERNATIONAL AGREEMENTS—Continued

Subject	House	Senate	Pages on which text appears in comparative print
[Sec. 202(a)(4)(B)] The S/S, upon the request of and in cooperation with Secretary of Commerce, shall negotiate with any foreign nation participating in a fishery for any "highly migratory species" for the purpose of entering into international fisheries agreements to establish an appropriate international fisheries organization with authority to manage and conserve such species.		The S/S shall, in cooperation with the Secretary of Commerce, negotiate with other nations for the purpose of conservation and management of highly migratory species which may be covered by international agreement.	
[Sec. 401] 14. Approval of provisions to the Law of the Sea conference.	If the United States ratifies a multilateral convention resulting from any United National Law of the Sea conference and if such convention contains provisions with respect to "the breadth of the territorial sea and the fisheries or economic zone", the Secretary of Commerce, in consultation with the S/S, may promulgate such changes in management regulations as may be necessary or desirable to conform such regulations to such convention.	It is the sense of the Congress that the United States not recognize the claim of any foreign nation to a fishery conservation zone (or equivalent) beyond 12 nautical miles from its territorial sea if that nation (1) fails to recognize traditional fishing activity of vessels of the United States (if any) within that zone; (2) fails to recognize such traditional activity with respect to anadromous species or shell resources as to which that nation asserts management authority; or (3) fails to accept that highly migratory special should be managed by international authority.	14 (definition) of "highly migratory species").
[Sec. 203] 15. Approval of international fishery agreements.	Treaties on fisheries would be approved in the traditional fashion, e.g., advice and consent by the Senate. Executive agreements concerning fisheries would be submitted to both House and Senate where such may be disapproved by either body.	The provisions of title I of this Act shall expire and cease to be of any legal effect on such date as a law of the sea treaty (or other comprehensive agreement as to fishery jurisdiction) which the United States has signed or is a party to, comes into force or is provisionally applied by the United States.	37 to 38.
[Sec. 304] 16. Authority of the Secretary of Commerce with respect to fisheries management and conservation.	The Secretary of Commerce (hereafter referred to as the "Secretary") "shall manage all fisheries over which the United States has fishery management responsibility and authority" (i.e., any coastal species within the zone, any anadromous species of the U.S. wherever found through the range of such species in the	Treaties on fisheries would be approved in the traditional fashion. Executive agreements concerning fisheries need not be submitted to Congress.	38.
[Sec. 304] 44. The Secretary is authorized to perform specified functions (primarily, the promulgation of management regulations prepared by the Councils in accordance with national standards and the establishment of guidelines based on the national standards for the Council to follow the developing fishery management plans			44.

B. MATTERS RELATED TO FISHERIES MANAGEMENT AND CONSERVATION

high seas, and any Continental Shelf species of the United States). The Secretary shall not manage any fishery except in accordance with a management plan prepared pursuant to this Act, except as otherwise provided.

Secretary appoints eight at-large members of the seven regional fisheries councils.

Secretary shall make staff, information, and personnel available to the Councils on a reasonable need basis.

Secretary shall consult with each Council in the preparation of a statement of its organization, procedure, and practices by each Council.

Secretary may request any Council to prepare a fishery management plan.

Secretary shall take proposed regulations prepared by Councils into account when developing proposed regulations to be promulgated under section 307.

[Sec. 301.]

17. National Fisheries Management Standards.

The management of the fisheries pursuant to this Act shall be consistent with specified national standards.

45 to 47.

[Sec. 302(a).]

18. Regional Councils.

There are established 7 "regional marine fisheries councils", as follows with the States represented by each respective Council as indicated in parentheses:

- (1) New England Marine Fisheries Council (Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut).
- (2) Mid-Atlantic Marine Fisheries Council (New York, New Jersey, Delaware, Pennsylvania, Maryland and Virginia).
- (3) Southern Atlantic Marine Fisheries Council (North Carolina, South Carolina, Georgia, Florida, Commonwealth of Puerto Rico, and the Virgin Islands).
- (4) Gulf Marine Fisheries Council (Texas, Louisiana, Mississippi, Alabama, Florida, Puerto Rico, Virgin Islands).

and in developing recommended regulations) with respect to the management and conservation of fisheries over which the United States has exclusive fisheries management authority.

Secretary recommends the appointment of a non-voting Federal official to the President for appointment to the Councils.

Secretary shall provide to each Council such administrative support as is necessary for effective functioning.

Secretary shall promulgate regulations governing the operations of the Councils.

Secretary has the authority to identify a fishery in need of regulation. The appropriate Council must then prepare a management plan and recommend regulations for that fishery.

The Secretary reviews management regulations recommended by Councils to determine if they are consistent with (A) the national standards and (B) the provisions and requirements of this Act and other applicable law. If they are consistent, he then promulgates those regulations after a period of time for further public comment.

Fishery management plans and management regulations shall conform to specified national standards. The standards specified are in substance the same in both the House bill and the Senate amendment.

The Secretary shall establish guidelines based on the national standards.

There shall be established, within 120 days after the date of enactment of this legislation, 7 "Regional Fishery Management Councils", as follows, consisting of the States specified in parentheses:

- (1) North Atlantic Fishery Management Council (Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia). The North Atlantic Council shall be concerned with the fisheries in the Atlantic Ocean seaward of these States.
- (2) South Atlantic Fishery Management Council (North Carolina, South Carolina, Georgia, and Florida). The South Atlantic Council shall be concerned with the fisheries in the Atlantic Ocean seaward of these States.
- (3) Caribbean Fishery Management Council (Virgin Islands and the Commonwealth of Puerto Rico). The Caribbean Council shall be concerned with the fisheries in the Caribbean seaward of these States.
- (4) Gulf of Mexico Fishery Management Council (Texas, Louisiana, Mississippi, Alabama, Florida). The Gulf Council shall be concerned with the fisheries in the Gulf of Mexico seaward of these States.

47 to 50.

A. MATTERS RELATING TO FISHERIES JURISDICTION AND INTERNATIONAL AGREEMENTS—Continued

Subject	House	Senate	Pages on which text appears in comparative print
18. Regional Councils—Continued			
	(5) Pacific Marine Fisheries Council (California, Oregon, Washington, Idaho).	(5) Pacific Fishery Management Council (California, Oregon, Washington, Idaho, Alaska). The Pacific Council shall be concerned with the fisheries in the Pacific Ocean seaward of California, Oregon, and Washington.	
	(6) Alaska Marine Fisheries Council (Alaska, Oregon, Washington).	(6) North Pacific Fishery Management Council (Alaska, Oregon, Washington). The North Pacific Council shall be concerned with the fisheries in the northern Pacific Ocean seaward of Alaska.	
	(7) Western Pacific Marine Fisheries Council (Hawaii, American Samoa, Guam).	(7) Outer Pacific Fishery Management Council (Hawaii, American Samoa, Guam, the Trust Territories of the Pacific). The Outer Pacific Council shall be concerned with the fisheries seaward of these States.	
[Sec. 302(b)(c)]			50 to 55.
13. Composition of Regional Councils.			
	Each of the Regional Councils shall consist of (1) the Executive Director of the Marine Fisheries Commission for the geographical area concerned; (2) the head of the fisheries management and conservation agency of each State represented on that Council (except that in the case of the Alaska Council, two appointees of the Governor of Alaska shall also serve); (3) the Regional Director of the National Marine Fisheries Service for the geographical area concerned; (4) the Regional Director of the United States Fish and Wildlife Service for the geographical area concerned; (5) 6 members appointed by the Secretary from a list of not less than 20 knowledgeable and experienced commercial or recreational fishing representatives, such list to be prepared by the foregoing directors and agency heads; and (6) 2 members who represent the public interest and who shall be appointed by the Secretary from a list of not less than 6 prepared by such directors and agency heads.	Each of the Regional Councils shall reflect "the expertise and interests of the several identified States in the ocean area over which such Council is granted authority." Each such State is entitled to 3 members on each applicable Council (except that in the case of the Caribbean Council, the Virgin Islands and Puerto Rico are entitled to 4 members each, and in the case of the North Pacific Council, Alaska is entitled to 5 and Oregon to 1 member). In addition, the President shall appoint, upon the recommendation of the Secretary, a Federal Government employee to serve as a non-voting member of each such Council. The members of the Councils shall be appointed by the President, by and with the advice and consent of the Senate, from a list submitted by the Governor of the State entitled to membership on that Council; at least one, in each instance, shall be a State official with expertise in fishery management. Members shall serve for 6-year terms, except that initial appointments are staggered.	56 to 60.
[Sec. 302(d)(e)(f)(g)]			
20. Miscellaneous provisions relating to the Regional Councils.	The members of each Council (other than individuals who are full-time government employees) shall be entitled to receive \$100 for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council. Members, while away from their homes, shall be allowed travel expenses including per diem in lieu of subsistence, as under 5 U.S.C. 5703(b).	Members of a Council, not otherwise employed in any capacity by the Federal or any State or local government, shall receive compensation at the daily rate for GS-18 of the General Schedule when engaged in the actual performance of duties for such Council. All members shall be reimbursed for actual expenses incurred in the performance of duties.	Each Council shall select a chairman.
	Each Council shall elect a Chairman.	A majority of the members of a Council shall constitute a quorum.	

【Sec. 302(h)】

21. Functions and powers of the Regional Councils.

but a lesser number may hold hearings.

Each Council shall meet at least 1 day during each calendar quarter and at the call of the Chairman or a majority of its members.

The Secretary shall make available to each Regional Council "such staff, information, and personnel services as it may reasonably require to carry out its functions". The head of any Federal agency is authorized to "detail, on a reimbursable basis", any personnel to a Council to assist it.

The Administrator of General Services, after consulting with the Secretary, shall (on a reimbursable basis) provide each Council with such administrative support services as it requests.

Each Council shall publish a statement of its organization, procedure, and practices.

Each Council may establish advisory panels to assist it in carrying out its functions.

Each Council shall—

- (1) solicit (by public hearings to the extent practicable and evaluate (on a continuing basis comments and recommendations from all interested persons in its area concerned with the administration and implementation of this Act;
- (2) develop fishery management plans for adoption by the Secretary;
- (3) take such other actions with respect to fishery management plans as may be required by section 304; and
- (4) submit a quarterly report to the Secretary on its activities (within 30 days after the close of each calendar quarter).

Whenever a Council action is not unanimous, the disagreeing members may submit to the Secretary a statement setting forth their reasons for disagreeing.

Each Council preparing a fishery management plan on its own initiative shall request the Secretary to provide such information as may be appropriate with respect to international fisheries agreements and any other pertinent information as to foreign fishing. (The Secretary shall provide such information when requesting any Council to prepare such a plan.)

Each Regional Council may "appoint and assign duties to" an executive director, such other full- and part-time employees as are necessary to conduct business, and persons to specified committees.

The Secretary shall provide to each Council such administrative support as is necessary for effective functioning.

The Secretary is authorized, under 5 U.S.C. 553, to promulgate regulations pertaining to the operation of the Councils.

Each Council shall establish a scientific and statistical committee composed of not more than 6 fisheries statisticians and experts and the director of the appropriate regional research center of the National Marine Fisheries Service and shall establish ad hoc or standing committees for each individual fishery identified by it as in need of conservation composed of persons actually engaged in that fishery and persons otherwise knowledgeable and interested to assist in preparing management programs, recommended regulations, and modifications thereto.

Each Council shall—

- (1) conduct public hearings to allow interested persons to be heard on the overall fishery management plan, any separate management program, recommended regulations, and any amendments thereto;
 - (2) identify fisheries in need of conservation within its geographic area of authority;
 - (3) develop, and submit to the Secretary, an overall fishery management plan, including separate programs for each fishery in need of management and conservation (within its area);
 - (4) develop, and submit to the Secretary, recommended regulations for the management and conservation of fish within its geographic area of authority;
 - (5) monitor fishing activity and review the impact of management regulations within its area; and
 - (6) report to the Secretary on its activities, programs, plans, findings, and such other matters as are requested.
- Each Council may recommend to the Secretary any appropriate amendments to or changes in management regulations, and it may otherwise carry out such other functions as are necessary and appropriate for the effective management and conservation of fishery resources within its geographic area of authority.

60 to 63.

A. MATTERS RELATING TO FISHERIES JURISDICTION AND INTERNATIONAL AGREEMENTS—Continued

Subject	House	Senate	Pages on which text appears in comparative print
21. Functions and powers of the Regional Councils—Continued	Each Council may at any time prepare a fishery management plan as to any species subject to the fisheries management responsibility and authority of the United States, and the Secretary may request any Regional Council to prepare any such plan. If a species ranges in waters adjacent to more than one Council, the Secretary shall designate which Council shall prepare the plan.	Each Council, or the Secretary, shall identify fisheries in need of conservation. The appropriate Council shall develop (1) a fishery management plan for each such fishery in priority order, and (2) recommended management regulations as required for such plan's implementation and maintenance. Action shall start within 60 days after all Council members take office. If a fishery extends beyond the geographic area of authority of a single Council, the appropriate Councils shall coordinate or combine their efforts as needed. No Council is authorized to develop a fishery management plan or regulations with respect to fisheries which are principally located in waters within the boundaries of a single State.	63-67.
[Sec. 303] 22. Scope and content of fishery management plans and proposed (recommended) management regulations.	Any fishery management plan shall contain the conservation and other measures which the Council that prepares it deems appropriate to the management of the species or fishery concerned and shall specify such conditions and limitations governing fishing which such Council believes should be implemented to carry out such measures. Any fishery management plan may— (1) designate zones where and periods when fishing shall be limited, not permitted, or qualified by vessel or gear restrictions; (2) establish a system for limiting access to the fishery to achieve optimum sustainable yield; (3) establish limitations on the catch of fish; (4) prohibit etc. the use of specified types of gear, vessels, or equipment; (5) specify pre-conditions; (6) require the submission of pertinent statistics to the Secretary. (Such statistics shall be confidential except when required under court order.); and (7) prescribe other limitations or requirements deemed necessary and appropriate. Each Council may prepare such proposed regulations as it deems necessary and appropriate to carry out any fishery management plan prepared by it. (The Secretary shall "take such regulations into account", when developing regulations to be promulgated under this Act.)	A fishery management plan shall include a description of the fishery involved including, but not limited to, the vessels, gear, species etc. involved, the likely costs of management, the potential revenue from the fishery, the recreational interests therein, and the extent of foreign fishing and Indian fishing rights, if any. Such a plan shall also include a summary of the best scientific information available as to the present and probable future condition of, and the maximum sustainable yield from, the fishery; as assessment of the capacity and desire of U.S. vessels to harvest the optimum yield from the fishery; and other relevant and appropriate information, data, and evaluations. The recommended management regulations for the implementation and maintenance of each fishery management plan may contain specific requirements which are the same in substance as the provisions in the House bill, except there is no requirement that catch statistics be kept confidential. Fishery management regulations shall be put into effect in a manner which does not disrupt the regular fishing season for any fishery. To the extent practicable and consistent with the national standards, the Councils shall incorporate the relevant fishery management measures of the nearest coastal States involved in the fishery.	63-67.

[Sec. 304]
23. Procedure by which management plans and regulations are put into effect.

Each fishery management plan prepared by a Council shall be submitted to the Secretary for review. Within 60 days after receipt, the Secretary shall review each such plan, notify the Council of his approval, disapproval, or partial approval, including objections and reasons in the case of disapproval or partial approval. In the latter instance the Secretary shall request appropriate amendment of the plan within 45 days. Upon receipt of an amended plan, the Secretary shall approve or disapprove within 30 days.

In reviewing a fishery management plan, the Secretary shall consider specified factors and, if foreign fishing vessels will be covered, consult with the S/S. The Secretary shall consult with the Coast Guard if enforcement at sea is involved; consult with other Federal agencies, the commercial and recreational fishing industries, and persons interested in conservation; and determine whether the plan is consistent with the national fisheries management standards.

If a Council which is requested by the Secretary to prepare a fishery management plan fails to do so within the time specified, or if the Secretary disapproves an amended plan and determines that a plan is needed, the Secretary shall prepare a fishery management plan for the fishery involved.

After the Secretary has approved a fishery management plan prepared by any Regional Council or prepared by the Secretary, the Secretary shall publish in the Federal Register the plan and all regulations which he proposed to promulgate in order to implement the plan. Interested persons shall be afforded at least 45 days to comment in writing, after which the Secretary may promulgate the regulations with such modifications as he deems appropriate. If a citizen or a State which may be adversely affected files written objections during the period for submission of written comments and requests a hearing, the Secretary shall not promulgate the regulations until a hearing in accordance with 5 U.S.C. 553.

The Secretary may at any time revise any regulation so promulgated.

If two-thirds of the Council members consent, the Secretary may waive the requirement for notice and public hearing with respect to any regulation implementing any fishery management plan if he finds that, due to an emergency situation, notice and hearing are impracticable, unnecessary, or contrary to the public interest. In case of objection in writing, such procedures shall be initiated within 40 days after the effective date of the emergency regulations. Any emergency regulation shall remain in effect for 1 year after the publication of the notice of proposed rulemaking unless terminated earlier.

58 to 71, 75 to 79.

The Secretary shall review each management regulation which is recommended by a Council and submitted to him in order to determine whether it is consistent with the national standards and the provisions and requirements of this Act and any other applicable law. If they are, the Secretary shall adopt them and immediately publish a notice of proposed rulemaking with regard to these regulations. If they are not, the Secretary shall advise the Council of the inconsistency and indicate the changes that are necessary. If the Council does not make the necessary changes within 60 days after the receipt of such notice, the Secretary shall make the necessary changes and thereupon issue the notice of proposed rulemaking. In such review, the Secretary shall consult with the S/S if any of the recommended management regulations would apply to foreign fishing, and with the Coast Guard if any of them involve methods and procedures for enforcement at sea.

The Secretary shall from time to time review the actions of the Regional Councils to determine whether they are acting in a timely fashion. If the Secretary determines that a Council has failed to recommend management regulations for any fishery within a reasonable time, the Secretary shall prepare such regulations and submit them to the Council which may make changes that are consistent with the national standards within 45 days after such submission. The Secretary shall thereupon issue a notice of proposed rulemaking with regard thereto.

Each notice of proposed rulemaking as to fisheries management regulations shall request comment, designate the fisheries to which they apply, and summarize the recommendations of the applicable Council.

The Secretary is authorized to promulgate regulations in accordance with the provisions of title II of this Act and 5 U.S.C. 553 governing fishing by vessels of the United States and foreign fishing within the zone, for anadromous species, and for Continental Shelf fishery resources.

If the Secretary determines that an emergency situation exists requiring immediate action in the national interest to protect any fishery resource, he shall prepare and promulgate emergency management regulations as soon as practicable.

Any coastal State or any interested member of the general public may nominate a fishery as a fishery in need of regulation by submitting a statement thereon to the Secretary, who shall promptly forward it to the appropriate Council for action.

The Secretary shall have no authority to promulgate management regulations establishing a limited access system unless a majority of the members of the Council involved approve them.

A. MATTERS RELATING TO FISHERIES JURISDICTION AND INTERNATIONAL AGREEMENTS—Continued

Subject	House	Senate	Pages on which text appears in comparative print
[Sec. 204(b)(10)] 24. Fees and reimbursement of certain foreign fees imposed on U.S. fishermen.	All fees imposed on any person under any fishery management plan implemented under this Act shall be collected by the Secretary and credited to a separate account in the Treasury of the United States; along with 10 percent of the fees collected from foreign fishermen. Such funds may be used to reimburse the owner or operator of a U.S. fishing vessel for fees imposed by a foreign nation for the amount by which such fee exceeds the average license fee imposed under all fishery management plans implemented under this Act.	The Secretary shall establish a schedule of reasonable fees which shall be paid to the Secretary by any foreign-flag fishing or fishing-support vessel authorized to fish. In setting such fees, the Secretary may take into account the cost of management, research, administration, enforcement, the value of the fishing privilege, and other relevant factors.	
[Sec. 204(b)(10)] 25. Fisheries Research and Development.	All license fees collected (other than those used for reimbursement of foreign fees) shall be used by the Secretary to carry out "stock assessment" and such other research and development as the Secretary deems appropriate with respect to fishery resources.	The Secretary shall initiate and maintain a program of fisheries research designed to acquire knowledge and information on management and conservation including, but not limited to, biological research, the impact of pollution, the impact of welland and estuarine degradation, and other factors bearing upon the abundance and availability of fish.	74.
[Sec. 305(e)] 26. Temporary Emergency Fishery management plans.	Within 90 days after the date of enactment of this Act, the Secretary shall prepare a management plan and promulgate necessary and appropriate regulations to implement such plan with respect to any coastal species or Continental Shelf species which he believes to be (as of such date of enactment) depleted, in imminent danger of becoming depleted, or under intensive use but unregulated because of the absence of management authority. Within 45 days after enactment, the Secretary shall submit a report to Congress setting forth the fisheries as to which he will take action pursuant to this emergency authority. Such a plan may include any of the requirements authorized to be included in a fishery management plan except that it may not impose limited entry or license fees on vessels of the United States. Any regulation promulgated under this authority shall be treated as an emergency regulation; it shall remain in effect for 180 days after it is promulgated unless earlier terminated by the Secretary.	80 to 81.	11 (definition of "depleted")
[Sec. 305] 27. Fishery Management Board.	Persons alleging to be aggrieved or adversely affected by fishery management regulations can seek review through normal administrative processes, then may challenge such action in court.	An independent instrumentality is established to be known as the Fishery Management Review Board. The Board shall have exclusive and original jurisdiction to hear appeals by any persons	82 to 87.

who is adversely affected or aggrieved by or who suffers legal wrong through any final management regulation promulgated by the Secretary under this title or any decision by the Secretary to issue, transfer, revoke, suspend, modify, or review a license or permit, or by any Regional Council whose recommended management regulations were determined by the Secretary to be not consistent with national standards.

The Fishery Management Review Board shall be composed of 5 members who shall be appointed by the President, by and with the advice and consent of the Senate. Of such members, at least 3 shall be individuals who shall be appointed by the President from a list of qualified individuals submitted to the President by the National Governors' Conference and consisting of not less than 3 such individuals for each vacancy. The term of office of Board members shall be 3 years except that the initial appointments shall be staggered. The members shall select one of their number to serve as Chairman. The Board may appoint an executive secretary and such administrative law judges and other employees as are necessary for the proper performance of its duties.

The Secretary and any Regional Council which is affected may intervene as a matter of right in any appeal to the Fishery Management Review Board, if not already a party. Review proceedings shall be in accordance with 5 U.S.C. 554, and, to the extent possible, shall be held in the locality closest to the fishery involved. The Board may, pending the outcome of the review proceedings before it, issue an order postponing the effective date of an action of the Secretary or preserving the status or rights of any person.

In any requested by a Council relating to any management regulation, the Board shall uphold the action of the Secretary unless it finds that the Secretary's action (1) was not consistent with the national standards or other applicable law; (2) was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (3) was contrary to constitutional right, privilege, power, or immunity; (4) was clearly not supported by the facts and record available to the Secretary; or (5) did not observe required procedure. If the Secretary's action is not upheld, the Board may enter a final decision invalidating the action remanding to the Secretary, and directing the Secretary and the affected Council to take appropriate action.

Board decisions may be appealed, and the scope of review shall be that set forth in 5 U.S.C. 706. Appropriate powers are granted to the Board, whose Members shall be compensated at the rate provided for level V of the Executive Schedule.

[Sec. 307]**28. Prohibited acts.**

It is unlawful for any person—

- (1) to violate any provision of this Act or any regulation promulgated under this Act to carry out a fishery management plan implemented pursuant to this Act;
- (2) to violate any condition or restriction accepted by a foreign nation, if fishing pursuant to a permit issued under section 201 (g);
- (3) to refuse to permit any authorized representative of the Secretary or of the Secretary of the department in which the Coast Guard is operating to board any fishing vessel to carry out any inspection relating to the enforcement of this Act, any regulation under this Act, or any condition or restriction on a foreign fishing permit;
- (4) to forcibly resist or otherwise interfere with such a representative who is engaged in such an inspection; or
- (5) to ship, transport, purchase, offer for sale, import, export, or have any fish taken in violation of this Act, such a management regulation, or such a permit condition or restriction.

89 to 91.

It is unlawful for any person—

- (1) to violate any provision of this Act or any regulation hereunder regarding fishing within the fishery conservation zone or with respect to anadromous species or Continental Shelf fishery resources;
 - (2) to violate any provision of any international fishery agreement to which the U.S. is a party and which is negotiated or reviewed pursuant to this Act, to the extent that the agreement applies to or covers fishing in the zone;
 - (3) to refuse to permit a duly authorized representative of the Secretary or of the Secretary of the department in which the Coast Guard is operating to board a fishing vessel or fishing-support vessel for purposes of inspection;
 - (4) to fail to cooperate with such a representative who is engaged in a reasonable inspection or to resist a lawful arrest; or
 - (5) to ship, transport, purchase, sell or offer for sale, import, export, possess, control or maintain in custody any fish taken in violation of this Act or management regulations under it or in violation of an international fishery agreement, if such person knew or had reason to know that such taking was not lawful; or
- It shall be a rebuttable presumption that all fish found on board a vessel which is seized in connection with any such prohibited act were taken or retained in violation of this Act.

[Sec. 309]**29. Penalties for prohibited acts.**

Criminal: Any person who commits an act prohibited by (3) or (4) above shall be fined not more than \$50,000 or, if a deadly or dangerous weapon is used, shall be fined not more than \$100,000 or imprisoned for not more than 10 years, or both.

Civil: Any person who is found by the Secretary after notice and a hearing under 5 U.S.C. 554, to have committed any act prohibited by (1), (2), or (5) above shall be liable for a civil penalty of not to exceed \$25,000 for each violation. The assessment of such a civil penalty may be reviewed in the courts and set aside if found to be unsupported by substantial evidence.

[Secs. 308, 310]**[Sec. 311]****30. Enforcement agencies, powers thereof, and procedure.**

The provisions of this Act and any regulation promulgated under this Act to carry out any fishery management plan implemented under this Act shall be enforced by—

- (1) the Secretary, and
- (2) the Secretary of the department in which the Coast Guard is operating.

Such Secretaries may utilize, by agreement, with or without reimbursement, in carrying out such enforcement, the personnel,

91 to 95.

The provisions of this Act and regulations thereunder shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels) and facilities of any other Federal agency, or any State agency, in the performance of such duties.

services, and facilities (A) of any other Federal agency, or (B) of any State agency as to any vessel in the zone or any U.S. vessel. Any individual authorized may—

- (1) board and inspect any fishing vessel, with or without warrant, if it is documented under the laws of the United States, registered under the laws of any State, or otherwise subject to the jurisdiction of the United States;
- (2) arrest any person, with or without a warrant, for refusal to permit inspection or forcible resistance thereto;
- (3) execute any warrant or other process issued by any officer or court of competent jurisdiction;
- (4) seize any fishing vessel and fishing gear used in, and any fishing vessel on which occurs, a prohibited act; and
- (5) seize any fish taken in violation thereof.

Any officer of a State, if designated to function under these provisions as a Federal agent, shall not be considered a Federal employee for civil service law purposes.

The Federal district courts shall have exclusive jurisdiction over all cases arising under this Act and regulations and permits hereunder.

Execution of process shall be stayed or fish seized shall be discharged if a satisfactory bond or other surety is received.

(1) Section 2 of the Fishermen's Protective Act of 1967 is amended to require the Secretary of State, as soon as practicable, to attend to the welfare of the vessel and crew whenever any vessel of the United States is seized and to secure their release. Section 3 of such Act is amended to add a definition of "other direct charge":

(2) Conforming amendments are made to the Act of May 20, 1967.

(3) The Atlantic Tuna Convention Act is amended to substitute the zone established by title 1 of this Act for present language.

(4) The Marine Mammal Protection Act is similarly amended.

There are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

【Secs. 402, 403】
31. Conforming amendments.

【Sec. 405】
【Sec. 404】
【Sec. 406】

32. Authorization of appropriations.

There are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

33. Severability.

Include severability clause.

Any person authorized may—

- (1) board and inspect any fishing vessel or fishing-support vessel within the zone or which he has reason to believe is fishing for anadromous species or Continental Shelf fishing resources;

- (2) arrest any person, with or without a warrant, if he has reasonable cause to believe that such person has committed a prohibited act;

- (3) execute any warrant or other process issued by an officer or court of competent jurisdiction; and

- (4) seize all fish and fishing gear found aboard any fishing vessel or fishing-support vessel which is engaged in any prohibited act.

The district courts of the United States shall have exclusive jurisdiction over all cases or controversies arising under this Act except as provided in the section dealing with the Fishery Management Review Board.

There are authorized to be appropriated—

- (1) to the Secretary, not to exceed:
 - \$22,000,000 for fiscal year 1976;
 - \$5,500,000 for transition quarter;
 - \$22,000,000 for fiscal year 1977.
- (2) to the Secretary of the department in which the Coast Guard is operating:
 - \$13,000,000 for fiscal year 1976;
 - \$3,250,000 for transition quarter;
 - \$13,000,000 for fiscal year 1977.

13 (definition of "fishing vessel" and "fishing support vessel").

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Notice to Users

This comparative analysis tracks the House-passed text of H.R. 200. The text of the Senate bill is shown next to the appropriate House language to the extent that the two bills are comparable. Language of the Senate bill which has no comparable House text is shown approximately where it appears in the Senate text. A number of Senate provisions are reproduced two or more times where they related to different sections of the House bill. Even though the Senate bill has been cut and spliced, all language of the Senate version appears. Please refer to the Senate index to locate any section. The House index to this analysis also shows the relevant Senate sections.

The comparison of House and Senate texts of necessity requires a great deal of subjective judgment when the presentation of concepts is approached in a substantially different manner as is the case with these bills in numerous instances. Undoubtedly there are inaccuracies.

Marginal notes are intended to draw attention to obvious differences and areas of uncertainty as to the intent of various provisions. They are not intended to reflect any preference.

February 2, 1976

COMPARATIVE PRINT

ON

H.R. 200

MARINE FISHERIES CONSERVATION
ACT OF 1975

AS PASSED BY THE HOUSE OF REPRESENTATIVES
AND BY THE SENATE

Printed for the use of the Committee of Conference

H. R. 200

94TH CONGRESS
1st Session

Passed the Senate January 28, 1976.

H. R. 200

94TH CONGRESS
1st Session

Passed the House of Representatives October 9, 1975.

AN ACT

P. 49

To extend, pending international agreement, the fishery management and conservation authority of the United States, and for other purposes.

AN ACT

To provide for the conservation and management of the fisheries, and for other purposes.

P. 1

That this Act may be cited as the "Magnuson Fisheries Management and Conservation Act".

3 SECTION 1 SHORT TITLE.

4 This Act may be cited as the "Marine Fisheries Conservation Act of 1975".

5

REMARKS

SENATE

P. 1

DECLARATION OF POLICY

HOUSE

[Sec. 2]

6 SEC. 2 CONGRESSIONAL FINDINGS, POLICY, AND PURPOSES.

7

[Sec. 2(a)]

8 (a) FINDINGS.—The Congress finds and declares the

9 following:

10 (1) Coastal species of fish which inhabit the waters

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1 adjacent to the United States, highly migratory species
 2 of the high seas, species which dwell on or in the Con-
 3 tinental Shelf, and anadromous species which spawn in
 4 United States rivers and estuaries, constitute an irre-
 5 placeable resource which contribute to the food supply
 6 and economy of the Nation as well as to the health and
 7 recreation of its people.

8 (2) Stocks of fish which United States fishermen
 9 depend upon have been the target of concentrated foreign
 10 fishing which has increased dramatically during the past
 11 decade. Certain coastal and anadromous species are de-
 12 pleted to the point where the survival of the fisheries is
 13 threatened and others have been substantially reduced in
 14 number, as the result of continued overfishing and failure
 15 to initiate or to observe sound conservation practices.

[Sec. 2(a)]

SEC. 2. (a) FINDINGS.—The Congress finds and de-
 clares that—

(1) The coastal species of fish which inhabit the
 waters off the coasts of the United States, the highly
 migratory species of the high seas, the species which
 dwell on or in the Continental Shelf, and the anadro-
 mous species which spawn in United States rivers and
 estuaries, constitute a valuable and renewable natural

P. 3

resource. This resource contributes to the food supply
 and economy of the Nation as well as to health and
 recreation.

(2) As a consequence of increased fishing pressure
 and because of the absence of adequate fishing manage-
 ment practices and controls, (A) certain stocks of such
 fish have been overfished to the point where their
 survival is threatened, and (B) other such stocks have
 been so substantially reduced in number that they could
 become similarly threatened.

REMARKS

SENATE

P. 2

[Sec. 2(a)]
Sec. 2. (a) . . .

(4) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade.

No comparable Senate provision.

HOUSE

(3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon the fishing industry as the foundation of the local economy. The depletion of fishery resources at an ever-increasing rate over the past decade threatens the social and economic fabric of those coastal regions where fishing and related activities are the principal source of employment.

(4) United States fishermen, confronted by massive

P. 3

foreign fishing fleets in coastal waters of the United States, have suffered extensive interference with their fishing efforts and destruction of their gear under circumstances which render it virtually impossible to secure compensation.

(5) International agreements have not been effective in halting the depletion of valuable coastal and anadromous species caused by such overfishing; and even to the extent that international agreements might ultimately prove to be effective, there is danger that irreversible depletion of such species will take place before such agreements can be negotiated, signed, ratified, and implemented.

P. 2

(3) International agreements have not always prevented or terminated overfishing, nor have they halted the unnecessary reduction of this valuable resource. There is danger that further overfishing will occur before an effective international agreement on fishery management and jurisdiction can be negotiated, signed, ratified, and implemented.

HOUSE

SENATE

REMARKS

14 (6) Fishing for coastal and anadromous species is
 15 carried out in part on the high seas off the coasts of the
 16 United States by United States and foreign vessels where
 17 no regime of law, except for specific international agree-
 18 ments, applies to govern fishing or to require conserva-
 19 tion practices.

20 (7) Fisheries resources are renewable and if placed
 21 under sound management before depletion has caused
 22 irreversible effects, can be restored to provide optimum
 23 sustainable yield. It is therefore in the national interest
 24 and in the interest of all nations and peoples engaged in
 25 fishing on the high seas to provide effective management

P. 4

1 programs that will both maintain the optimum sustain-
 2 able yield of fisheries resources and support the com-
 3 mercial and recreational fishing industries.

4 (8) Developing international law, as proposed in
 5 the informal single negotiating text recently prepared at
 6 the Third United Nations Conference on the Law of the
 7 Sea, proposes primary coastal state management and
 8 preference over coastal species in an economic zone ex-
 9 tending to 200 miles beyond the baseline of the terri-
 10 torial sea, and primary boat state management and pref-
 11 erence over anadromous species.

[Sec. 2(a)] P. 3

Sec. 2. (a) . . .

(6) Fishery resources are finite but renewable. If
 placed under sound management before overfishing has
 caused irreversible effects, the fisheries can be restored
 and maintained so as to provide optimum yields.

(7) A national program for management and con-
 servation of the fishery resources subject to the jurisdic-
 tion of the United States is necessary to prevent over-
 fishing, to rebuild overfished stock, to insure conserva-
 tion, and to realize the full potential of the Nation's fish-
 ery resources.

No comparable Senate provision.

No comparable Senate provision.

HOUSE	SENATE	REMARKS
12	P. 2	
13	SEC. 2. (a) . . .	
14	(5) Management of fisheries as common property	No comparable House provision.
15	P. 3	
16	resources has led to the use of excessive amounts of capital and labor in many fisheries. As a result, the profits earned by individual fishermen are low, potential economic benefits to the Nation are lost, and the fisheries are depressed industries.	
17	P. 3	
18	(8) A national program for the development of a United States fishery for bottom-fish off Alaska and our other States is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.	No comparable House provision.
19	P. 3	
	SEC. 2. . . .	
	(b) PURPOSES.—It is therefore declared to be the purpose of the Congress in this Act—	
	P. 3	
	(1) to take immediate action to protect and conserve the fishery resources of the Nation by declaring management and conservation authority over such resources in a 200 nautical mile zone off the coasts of the United States;	
	P. 4	
	(1) to conserve and manage the fisheries resources found off the coasts of the United States and the numerous fisheries resources of the United States in the high seas by establishing an exclusive fisheries conservation and management zone in the area extending 200 nautical miles from the coasts of the United States;	

HOUSE

SENATE

REMARKS

P. 4

【Sec. 2(b)】
Sec. 2. (b) . . .

20 miles seaward of the United States within which the
21 United States will assume management responsibility
22 and authority over all fisheries resources, except highly
23 migratory species, and by declaring fisheries management
24 responsibility and authority on the high seas beyond such
25 zone with respect to anadromous species;

(2) to extend the exclusive management jurisdiction of the United States over the fishery resources of the Continental Shelf and over anadromous species of fish which spawn in the rivers and estuaries of the United States; and

P. 5

【Sec. 2(c)】
Sec. 2. (c) . . .

1 (2) to support and encourage international mea-
2 sures for the conservation and management of highly
3 migratory species on the basis of regulations consistent
4 with the terms of any applicable international fisheries
5 agreement;

(3) to support and encourage international agreements for the management of highly migratory species of fish and to manage such species when found within the 200-mile zone on the basis of regulations adopted pursuant to such agreements; and

6 (3) to promote the commercial and recreational
7 fishing industries of the United States in order to maxi-
8 mize under sound conservation and management prin-
9 ciples the production of food from the sea and the recrea-
10 tional opportunities of the American people;

P. 4

【Sec. 2(b)】
Sec. 2. (b) . . .

11 (4) to establish management programs which with
12 active and maintain an optimum sustainable yield from
13 fisheries resources under circumstances which will enable
14 the States, the fishing industry, consumer and environ-
15 mental organizations and other interested persons to

(3) to establish a national fishery management program to prevent overfishing, to rebuild overfished stocks, to insure conservation, and to realize the full potential of the Nation's fishery resources, and to encourage the development of a domestic capability to harvest and process

No comparable Senate provision.

HOUSE	SENATE	REMARKS
16 participate in or advise on the establishment of manage- 17 ment plans and regulations, and in the development of 18 such programs in regard to stocks of fish, to consider 19 the social and economic needs of the coastal States along 20 which such stocks abound;	P. 4 fishery resources which are currently underutilized or unutilized by United States fishermen, particularly the bottom fishery of the North Pacific and Bering Sea and other bottom fishery potential off our coasts.	No comparable Senate provision.
(5) to permit foreign fishing within the fisheries zone established by title I of this Act consistent with the conservation requirements of the various stocks, if there are excess stocks of fish not being utilized to the opti- mum sustainable yield by United States commercial or		
P. 6		
recreational fishermen, after there is taken into account the efforts of United States fishermen to develop new and expanded fisheries, and the fact that certain stocks of fish which United States fishermen have been heavily de- pendent upon are now seriously depleted largely as a result of foreign fishing;		No comparable Senate provision.
(6) to support and encourage continued active United States efforts to obtain an internationally accept- able treaty at the Third United Nations Conference on the Law of the Sea, and particularly to seek effective conservation of living ocean resources;	P. 4 [Sec. 2(c)] Sec. 2 . . .	No separate policy section in House bill.
(c) POLICY.—It is further declared to be the policy of the Congress in this Act—		

REMARKS

SENATE

HOUSE

P. 4

【Sec. 2(c)】
Sec. 2. (c) . . .

(1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the management and conservation of fishery resources, as provided in this Act;

P. 4

(2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, other

P. 5

than that necessary for the management of conservation of fishery resources, as provided in this Act;

P. 5

(4) to assure that the national fishery management program (A) utilizes, and is based up, the best scientific information available; (B) involves, and is responsive to the needs of, interested and affected citizens; (C) promotes efficiency; (D) minimizes the costs of research, administration, management, and enforcement; and (E) is workable and effective.

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【Sec. 3】 DEFINITIONS

Sec. 3. As used in this Act, unless the context otherwise requires, the term—

【Sec. 3】

21 SEC. 3. DEFINITIONS.

22 For purposes of this Act—

12 (7) to maintain without change the existing jurisdiction and rights of the United States in the Continental Shelf and the waters adjacent thereto for all purposes, other than the protection and conservation of fisheries resources as provided by this Act; and

17 (8) not to authorize any impediment to, or interference with, lawful activities on the high seas, except with respect to the protection and conservation of fisheries resources as provided by this Act.

No comparable House provision.

HOUSE

SENATE

P. 5

SEC. 3 . . .

23 (1) The term "anadromous species" means those
 24 species of fish which spawn in fresh or estuarine waters
 25 of the United States and which migrate to ocean waters.

P. 7

1 (2) The term "coastal species" means all species of
 2 fish other than any species referred to in paragraphs
 3 (1), (3), and (13) of this section.

4 (3) The term "Continental Shelf species" means
 5 any Continental Shelf fishery resource as defined in
 6 section 5 (a) of the Act of May 20, 1964 (78 Stat.
 7 196; 16 U.S.C. 1085 (a)).

(1) "anadromous species" means those species of
 fish which spawn in fresh and estuarine waters of the
 United States and which migrate to ocean waters;

P. 5

(3) "coastal species" means all species of fish, other
 than highly migratory and anadromous species, which
 inhabit the waters off the coasts of the United States;

P. 9

(5) "Continental Shelf fishery resources" means
 living organisms of sedentary species which, at the har-
 vestable stage, are either (A) immobile, (B) in the
 seabed, or (C) unable to move except in constant
 physical contact with the seabed or subsoil of the Con-
 tinental Shelf; including, but not limited to, the follow-
 ing species:

COLENTREATA

Bamboo Coral—*Acarella* spp.;

Black Coral—*Antipathes* spp.;

P. 7

Gold Coral—*Callogorgia* spp.;

Precious Red Coral—*Coralium* spp.;

Bamboo Coral—*Keratois* spp.; and

Gold Coral—*Parazoanthus* spp.

Senate bill reports act of May 20, 1964, but uses definition in Act
 to define Continental Shelf species.

HOUSE

SENATE

REMARKS

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CRUSTACEA

Tanner Crab—*Chionectes tanneri*;
 Tanner Crab—*Chionectes opilio*;
 Tanner Crab—*Chionectes angulatus*;
 Tanner Crab—*Chionectes bairdi*;
 King Crab—*Paralithodes camtschatica*;
 King Crab—*Paralithodes platypus*;
 King Crab—*Paralithodes brevipes*;
 Lobster—*Homarus americanus*;
 Dungeness Crab—*Cancer magister*;
 California King Crab—*Paralithodes californiensis*;
 California King Crab—*Paralithodes rathbuni*;
 Golden King Crab—*Lithodes sequepius*;
 Northern Stone Crab—*Lithodes maia*;
 Stone Crab—*Menippe mercenaria*; and
 Deep-sea Red Crab—*Geryon quinquevatus*.

MOLLUSKS

Red Abalone—*Haliotis rufescens*;
 Pink Abalone—*Haliotis corrugata*;
 Japanese Abalone—*Haliotis kamtschatkana*;
 Queen Conch—*Strombus gigas*;

P. 8

Surf Clam—*Spisula solidissima*; and
 Ocean Quahog—*Arctica islandica*.

REMARKS

SENATE

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SPONGES

Glove Sponge—*Hippospongia canaliculata*;
 Sheepswol Sponge—*Hippospongia lachne*;
 Grass Sponge—*Spongia graminea*; and
 Yellow Sponge—*Spongia barbara*.

The Secretary, in consultation with the Secretary of State, may add to the foregoing list the name of any other species of living organism which he determines to be such a resource, upon publication of a notice to such effect in the Federal Register; and such species shall thereafter be considered to be included in the term.

No comparable Senate definition.

HOUSE

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(4) The term "depleted", when used with reference to any species of fish, means that a stock of the species has been so reduced, as a result of overfishing or any other cause induced by man, or as a result of any natural cause, that a substantial reduction in fishing effort must be immediately achieved in order that the stock can replenish itself and once again provide an optimum sustainable yield.

(5) The term "fisheries zone" means the fisheries conservation and management zone established by title I of this Act.

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(9) "fishery conservation zone" means a zone contiguous to the territorial sea of the United States within which the United States exercises exclusive fishery management and conservation authority:

REMARKS

SENATE

P. 8

SEC. 3 . . .

(7) "fish" means all living marine organisms, including, but not limited to, finfish, mollusks, crustaceans, marine mammals, and all other forms of marine animal and plant life (but not including birds) ;

P. 8

(8) "fishery" means—

(A) one or more stocks of fish which can be managed as a unit for purposes of management and conservation and which are identified by the appropriate Council and the Secretary on the basis of

P. 9

geographic, scientific, technical, recreational, and economic characteristics; and

(B) the business, organized activity, or act of fishing for such stocks ;

P. 9

(10) "fishing" means the catching, taking, harvesting, or attempted catching, taking, or harvesting of any fish for any purpose other than scientific research, and any activity at sea in support of such actual or attempted catching, taking, or harvesting.

HOUSE

(6) The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than birds or marine mammals.

(7) The term "fishery" means the business, organized activity, or act of fishing for a particular stock or species of fish (or for two or more stocks or species which are caught simultaneously or otherwise caught together)

P. 8

(8) which by virtue of its geographical, scientific, technical, recreational, and economic characteristics is capable of being regulated as a unit.

(8) The term "fishing" means the catching, taking, harvesting, or attempted catching, taking, or harvesting, or any action which can reasonably be expected to result in the catching, taking, or harvesting, of fish for any purpose, and any activity at sea in support thereof.

Senate bill includes marine mammals—House bill amends Marine Mammal Protection Act.

REMARKS

SENATE

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- (9) The term "fishing vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or of a type normally used for, fishing;
- (11) "fishing vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or of a type which is normally used for, aiding or assisting one or more fishing vessels at sea in the performance of any support activity (except a scientific research vessel), including, but not limited to, supply, storage, refrigeration, or processing;

P. 10

- (12) "fishing-support vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or of a type which is normally used for, aiding or assisting one or more fishing vessels at sea in the performance of any support activity (except a scientific research vessel), including, but not limited to, supply, storage, refrigeration, or processing;
- (14) "high seas" means waters beyond the territorial sea or the fishery conservation zone (or the equivalent thereof) of any nation;

P. 10

- (16) "international fishery agreement" means any bilateral or multilateral treaty, convention, or agreement which relates to fishing and to which the United States is a party;

No comparable Senate definition.

HOUSE

- (9) The term "fishing vessel" means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for—
- (A) fishing; or
- (B) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, supply, storage, refrigeration, transportation, or processing.

- (10) The term "high seas" means all waters beyond the territorial sea of the United States.

- (11) The term "international fisheries agreement" means any bilateral or multilateral treaty, convention, or agreement relating to fishing to which the United States is a party.

- (12) The term "Marine Fisheries Commission"

P. 9

- includes the Atlantic States Marine Fisheries Commission, the Gulf States Marine Fisheries Commission, and the Pacific Marine Fisheries Commission established by interstate compact.

House definition encompasses Senate definitions (11) and (12). Senate definition excludes scientific research vessels.

REMARKS

SENATE

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(15) "highly migratory species" means species of the tuna which, in the course of their life cycle, spawn and migrate in waters of the ocean;

P. 10

(18) "optimum", with respect to the yield from a fishery, means the amount of fish—

(A) which, if produced, will provide the greatest benefit to the Nation; and

(B) which is prescribed as such by the appropriate Council and the Secretary on the basis of the maximum sustainable yield from such fishery as modified by any relevant economic, social, and/or ecological factors;

P. 10

(19) "person" has the meaning set forth in section

P. 11

1 of title I, United States Code, and, in addition, includes any government, including a foreign government, any entity of a government, and a citizen of a foreign nation;

P. 11

(20) "Secretary" means the Secretary of Commerce, or his delegate;

HOUSE

(13) The term "highly migratory species" means those species of tuna which spawn and migrate during their life cycles in waters of the high seas, in and outside the fisheries zone.

(14) The term "optimum sustainable yield" means a yield which provides the greatest benefit to the United States as determined on the basis of the maximum sustainable yield of a stock or stocks of fish as modified by relevant ecological, economic, and social factors.

(15) The term "person" means any individual, corporation, partnership, or association (whether or not such individual is a citizen or national of the United States, or such entity is organized or existing under the laws of any State), and any government or entity thereof

(16) The term "Secretary" means the Secretary of Commerce.

HOUSE

SENATE

REMARKS

SEC. 3 . . .

P. 11

22 (17) The term "State" means any of the several
 23 States, the District of Columbia, the Commonwealth

P. 10

1 of Puerto Rico, American Samoa, the Virgin Islands,
 2 Guam, and the possessions of the United States.

3 (18) The term "stock" means a species, subspecies,
 4 geographical grouping, or other category of fish capable
 5 of management as a unit.

6 (19) The term "United States" when used in a
 7 geographical context, means all the States thereof.

(21) "State" means each of the several States,
 the District of Columbia, the Commonwealth of Puerto
 Rico, American Samoa, the Virgin Islands, Guam,
 and any other territories and possessions of the United
 States;

P. 11

(22) "stock", with respect to any fish, means a
 type, species, or other category capable of management
 as a unit;

P. 11

(23) "United States", when used in the geograph-
 ical context, includes all States; and

P. 5

(2) "Board" means the Fishery Management Re-
 view Board established under section 204 of this Act;

P. 6

(4) "conservation" refers to all of the rules, regu-
 lations, conditions, methods, and other measures (A)
 which are required to rebuild and maintain, and useful
 in rebuilding and maintaining fishery resources and the
 marine environment; and (B) which are designed to
 assure that—

Senate definition includes Trust Territory of the Pacific Islands.
 House bill does not.

No comparable House definition.

No comparable House definition.

HOUSE	SENATE	REMARKS
	P. 9	
	(i) a supply of food, and other products, and recreational benefits, may be taken or obtained therefrom on a continuing basis; (ii) irreversible or long-term adverse effects on fishery resources, or on the marine ecosystem as a whole are highly unlikely; and (iii) there will be a multiplicity of options available with respect to future use of those resources;	
	P. 9	
	(6) "Council" means a Regional Fishery Management Council established under section 202 of this Act;	No comparable House definition.
	P. 9	
	(13) "foreign fishing" means fishing by a vessel other than a vessel of the United States;	No comparable House definition.
	P. 10	
	(17) "national standards" means the national standards for fishery management and conservation set forth in section 201 (a) of this Act;	No comparable House definition.
	P. 11	
	(24) "vessel of the United States" means any boat, ship, contrivance, or other craft, however propelled or moved, which is—	No comparable House definition.

P. 11

(A) designed, used, or capable of being used for navigation on or under water; and

(B) documented under the laws of the United States or which is registered under the laws of any State.

P. 10

8 TITLE I—ESTABLISHMENT OF
9 UNITED STATES FISHERIES
10 CONSERVATION AND MANAGE-
11 MENT ZONE EXTENDING TO
12 THE 200-MILE LIMIT

[Sec. 101]

13 SEC. 101. ESTABLISHMENT OF FISHERIES CONSERVATION

14 AND MANAGEMENT ZONE.

15 There is hereby established a fisheries conservation and
16 management zone (hereinafter referred to in this title as the
17 "zone") contiguous to the territorial sea of the United States.
18 The seaward boundary of the zone shall be a line drawn so
19 that each point on the line is 200 nautical miles from the
20 baseline from which the breadth of the territorial sea is
21 measured.

[Sec. 201]

22 SEC. 102. EXCLUSIVE RIGHTS OF UNITED STATES WITHIN

23 ZONE.

24 The United States will exercise the same exclusive
25 rights in respect to fisheries in the zone as it has in its ter-

P. 12

TITLE I—FISHERY MANAGEMENT JURISDIC-
TION OF THE UNITED STATES

EXTENT OF JURISDICTION

[Sec. 101]

SEC. 101. (a) FISHERY CONSERVATION ZONE.—(1)

There is established a zone contiguous to the territorial sea of the United States to be known as the fishery conservation zone. Within such zone the United States shall, except as provided in subsection (d) of this section, exercise exclusive fishery management authority in the manner provided for in title II of this Act. The inner boundary of this zone is a line formed by the seaward boundaries of the coastal States, and the outer boundary of this zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline by which the territorial sea is measured.

1 ritorial sea. Fishing by foreign states within the zone will
 2 be permitted as may be recognized on or after July 1, 1976,
 3 by the United States pursuant to the provisions of this Act.

【Sec. 202(d)】

4 SEC. 103. ADJUSTMENT OF BOUNDARY.

5 Whenever the President determines that a portion of the
 6 zone conflicts with the territorial waters or fisheries zone of
 7 another country, he may establish a seaward boundary for
 8 such portion of the zone in substitution for the seaward
 9 boundary described in section 101.

【Sec. 202(d)】

SEC. 103.

(c) **BOUNDARY AGREEMENTS.**—The Secretary of State is authorized and directed to initiate and conduct negotiations with adjacent foreign nations to establish the boundaries of the fishery conservation zone of the United States in relation to any such nation.

RELATIONSHIP TO STATE LAWS

【Sec. 306】

10 SEC. 104. STATE JURISDICTION.

11 Nothing in this Act shall be construed—

12 (1) as extending the jurisdiction of any State to any
 13 natural resource beneath and in the waters within the
 14 zone;

15 (2) as diminishing the jurisdiction of any State over
 16 any natural resource beneath and in its internal waters;

17 or

18 (3) except as may be provided pursuant to section
 19 309 as diminishing the jurisdiction of any State to any
 20 natural resource beneath and in the waters of the territorial sea of the United States.

【Sec. 306】

SEC. 205. Nothing in this Act shall be construed to extend the jurisdiction of any State over any natural resources beneath and in the waters beyond its seaward boundaries, or to diminish the jurisdiction of any State over any natural resource beneath and in the waters within its boundaries.

HOUSE

22 [Sec. 402(a)]

23 SEC. 105. REPEALER.

24 The Act of October 14, 1968 (80 Stat. 908; 16 U.S.C.

25 1091-1094), is repealed.

[Sec. 104] P. 13

1 SEC. 106. EFFECTIVE DATE.

2 This title shall take effect July 1, 1976.

SENATE

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REPEAL

[Sec. 402(a)]

Sec. 303. (a) The Act of October 14, 1966 (16

U.S.C. 1091-1094), is repealed.

[Sec. 104] P. 47

Sec. 302 . . .

(d) EFFECTIVE DATE.—Except as provided in this

P. 46

subsection, the effective date of this Act shall be the date of enactment, but the provisions of this Act with respect to fishing within the fishery conservation zone and for anadromous species shall not be effective for enforcement as to violations before July 1, 1977.

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TITLE II—INTERNATIONAL FISHERIES AGREEMENTS

[Sec. 201]

5 SEC. 201. FISHING BY FOREIGN VESSELS IN THE FISHERIES

6 ZONE AND SEAWARD OF THE ZONE

7 FOR MANAGED ANADROMOUS SPECIES.

[Sec. 204]

8 (a) PERMITS REQUIRED OF FOREIGN VESSELS.—No
9 fishing vessel, except a vessel documented under the laws of
10 the United States or registered under the laws of any State,
11 shall engage in fishing within the fishery zone, or fishing
12 seaward of the fishery zone for any anadromous species with
13 respect to which a fishery management plan implemented

FOREIGN FISHING

[Sec. 201]

Sec. 102. (a) GENERAL.—The Secretary and the Secretary of State, after consultation with the Secretary of the Treasury, may authorize foreign fishing within the fishery conservation zone, for anadromous species, or for Continental Shelf fishery resources, in accordance with the provisions of this section and subject, where appropriate, to (1) title II of this Act, and regulations promulgated under such title, and (2) sections 301 and 302 of this Act.

(b) ALLOWABLE LEVEL.—(1) The allowable level of total foreign fishing, if any, shall be set upon the basis of the

REMARKS

The Senate bill, though as amended, does not include a conforming amendment to make this repealer effective July 1, 1977. Such an amendment is necessary so that the existing 12-mile fishery zone Act is not repealed before such date, leaving a void in the law.

Provisions dealing with Foreign Fishing do not lend themselves to discussion in this manner. The Director merely set out in full without attempting to allude concepts.

REMARKS

SENATE

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portion of the allowable catch of any fishery or stock of fish which cannot or will not be harvested by vessels of the United States. Annual allowed foreign fishing and annual fishing by vessels of the United States shall not, for any fishery or stock of fish, exceed the optimum yield thereof. For purposes of

P. 14

this subsection, the term "allowable catch" means the surplus, from any fishery or stock of fish, which can be taken without exceeding the applicable optimum yield.

(2) In determining the allowable level of total foreign fishing with respect to any particular fishery or stock of fish, the Secretary and the Secretary of State shall utilize the best available scientific information, including, but not limited to, catch and effort statistics and relevant data compiled and made available by any foreign nation.

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(3) In determining the allowable level of foreign fishing for any particular nation, with respect to any fishery or stock of fish subject to the exclusive fishery management authority of the United States, the Secretary and the Secretary of State shall consider whether, and to what extent, the vessels of such

HOUSE

14 pursuant to title III of this Act applies, unless such vessel
15 has on board a valid permit issued by the Secretary pursuant
16 to this section.

17 (b) APPLICATION FOR PERMITS.—Any foreign nation
18 seeking a permit referred to in subsection (a) on behalf of
19 one or more vessels registered under its flag may file an
20 application therefor with the Secretary of State. Any appli-
21 cation shall—

22 (1) state the name and official number of each
23 fishing vessel for which a permit is sought;

24 (2) set forth the tonnage, capacity, speed, process-

P. 13

1 ing equipment, gear, and such other characteristics of
2 each vessel as the Secretary may require;

3 (3) specify the species of fish for which the vessel
4 or vessels will fish;

5 (4) specify the amount of fish or tonnage of catch
6 contemplated;

7 (5) specify the ocean area in which, and the season
8 or period during which, such fishing will be conducted;

9 and

REMARKS

SENATE

P. 14

10 nation have traditionally fished in such fishery or for such
 11 stock.

[Sec. 201]

Sec. 102....

(c) RECIPROCITY.—Foreign fishing shall not be authorized for any foreign nation unless such nation satisfies the Secretary and the Secretary of State that it extends substantially the same fishing privileges to vessels of the United States, with respect to an equivalent fishery or stock of fish within its fishery conservation zone, or its equivalent, or for such nation's endogenous species or Continental Shelf fishery resources, if any.

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[Sec. 201]

Sec. 102....

(d) CONDITIONS.—The Secretary and the Secretary of State shall establish appropriate conditions on foreign fishing, which shall be complied with by any foreign-flag fishing or fishing-support vessel of any nation which is authorized to fish pursuant to subsection (a) of this section. Such conditions shall be consistent with the national standards, the fishery management plans, and the management regulations under title II of this Act.

HOUSE

10 (6) set forth such other pertinent information as
 11 the Secretary may require.

12 (c) TRANSMISSION OF APPLICATION FOR ACTION.—
 13 Upon receipt of any application referred to in subsection
 14 (b), the Secretary of State shall—

15 (1) promptly transmit such application, together
 16 with his comments and recommendations thereon, to
 17 the Secretary, and

18 (2) transmit a copy of the application to the Secretary of the department in which the Coast Guard is operating.

19 (d) TENTATIVE APPROVAL OF APPLICATION AND
 20 PREPARATION OF STATEMENT OF CONDITIONS AND RE-
 21 STRICTIONS.—Upon receipt of any application, and after
 22 consultation with the Secretary of the department in which

P. 14

1 the Coast Guard is operating with respect to enforcement
 2 and after taking into consideration the views and recommendations of the Secretary of State and the appropriate regional marine fisheries council, the Secretary, if he determines that the fishing activity proposed in the application is consistent with the policy and purposes of this Act and with

HOUSE

7 the national fisheries management standards set forth in sec-
 8 tion 302 (c), and after taking into account any traditional or
 9 historical patterns of fishing by the applicant nation for the
 10 species of fish covered in the application, shall tentatively
 11 approve the application (subject to the provisions of sub-
 12 section (c)) and shall prepare a statement of the conditions
 13 and restrictions which will apply to the fishing in which the
 14 foreign vessels propose to engage and to which the foreign
 15 country must agree before any permit may be issued under
 16 this section. Any statement of conditions and restrictions
 17 shall include—

18 (1) any adjustment deemed necessary by the Sec-
 19 retary in the number of fishing vessels for which permits
 20 may be issued;

21 (2) if the vessels will engage in fishing for a
 22 species for which a fishery management plan has been
 23 implemented pursuant to title III of this Act (herein-

24 after referred to in this section as a "managed species")
 25 all requirements imposed by such plan;

P. 15

1 (3) if the vessels will engage in fishing for other
 2 than a managed species, such conditions and restrictions

SENATE

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【Sec. 201】
 Sec. 102 . . .

(e) MISCELLANEOUS.—(1) The Secretary, through the
 National Oceanic and Atmospheric Administration shall
 verify the authenticity of foreign catch statistics and any
 other relevant data furnished for purposes of this section.
 The Secretary may require that observers be placed aboard
 foreign-flag fishing and fishing-support vessels authorized to
 fish pursuant to subsection (a) of this section, to the extent
 deemed necessary by the Secretary to ensure that accurate
 catch statistics are reported and that the applicable allowable
 level is not exceeded.

(2) The Secretary shall establish a schedule of reason-
 able fees which shall be paid to the Secretary by any for-
 eign-flag fishing or fishing-support vessel authorized to fish
 pursuant to subsection (a) of this section. In determining
 the level of such fees, the Secretary may take into account the
 cost of management, research, administration, enforcement,

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the value of the fishing privilege, and other relevant factors.
 The fees charged may vary for different categories of fisher-
 men, to the extent deemed reasonable and appropriate.

(3) All pertinent information relating to foreign fishing,

Senate bill permits fees to be collected against foreign vessels for management, research, and enforcement costs, but does not limit fees to research and limited information furnished to United States fishermen for fees assessed by foreign nations.

REMARKS

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3 with respect to tonnage, season, catch, gear, require-
 4 ments, and statistical reporting as the Secretary deems
 5 appropriate for the species concerned;

6 (4) enforcement conditions, including but not lim-
 7 ited to—

8 (A) procedures which will apply with respect
 9 to the boarding and inspection of the vessels, includ-
 10 ing the requirement that the permit issued to any
 11 vessel pursuant to this section must be prominently
 12 displayed in the wheelhouse of the vessel and must
 13 be promptly surrendered to any officer authorized to
 14 enforce the provisions of this Act at the time of his
 15 boarding.

16 (B) requirements for on-board observers and
 17 reimbursement to the United States for the costs of
 18 such observers, and

19 (C) prepayment of any license fees which may
 20 be levied in the case of a managed species;

21 (5) in any case in which subsection (c) applies, a
 22 further condition that any other condition and restric-
 23 tion imposed pursuant to this subsection shall be pro-
 24 visionally applicable until such time as the fishery man-
 25 agement plan is implemented and may be unilaterally

SENATE

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including that which is authorized to be collected by the
 Secretary, shall be made available publicly and shall be
 published, in summary form where appropriate, in the
 Federal Register.

(4) No vessel of a foreign nation authorized to fish pur-
 suant to subsection (a) of this section shall engage in such
 fishing unless and until the owner or operator thereof estab-
 lishes and maintains a place of business in the United States
 and names an agent in a State who is authorized to receive
 legal process.

[Sec. 201]

SEC. 102. . . .

(f) **PROHIBITION.**—Except as provided pursuant to this
 Act, it shall be unlawful for any vessel, or for any master
 or other person in charge of any vessel, except a vessel of
 the United States, to engage in fishing in the internal
 waters, the territorial sea, or the fishery conservation zone
 of the United States, or to engage in fishing for anadromous
 species or Continental Shelf fishery resources.

HOUSE

SENATE

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1 amended by the Secretary after such implementation in
 2 such manner as may be necessary to conform them to
 3 the plan requirements; and

4 (6) any other conditions and restrictions which the
 5 Secretary deems necessary or appropriate.

6 (c) SPECIAL CONSIDERATIONS IN CASE OF APPLICATION
 7 TO FISH FOR SPECIES FOR WHICH FISHERY MANAGEMENT
 8 PLAN IS BEING DEVELOPED.—The Secretary
 9 may tentatively approve an application for fishing by foreign
 10 vessels for a species with respect to which a fishery management
 11 plan is being developed by a regional marine fisheries
 12 council or by the Secretary under title III of this Act only
 13 if the Secretary determines that the species is not depleted.

14 (f) CONGRESSIONAL ACTION ON APPLICATION.—Any
 15 application tentatively approved by the Secretary, together
 16 with the statement of conditions and restrictions prepared by
 17 the Secretary pursuant to subsection (d) —

18 (1) shall be deemed, for the purposes of section
 19 206, to be an international fisheries agreement; and

20 (2) shall be transmitted by the Secretary to the
 21 President for delivery to Congress pursuant to section
 22 206 (a) (1).

23 (g) ISSUANCE OF PERMITS.—If neither the House
 24 of Representatives nor the Senate disapproves an application
 25 pursuant to section 206, the Secretary of State shall

No comparable Senate provision.

No comparable Senate provision.

No comparable Senate provision.

HOUSE

SENATE

REMARKS

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1 transmit to the foreign nation concerned a statement of condi-
 2 tions and restrictions prepared by the Secretary with respect
 3 to the application. Upon acceptance of the conditions and
 4 restrictions by the foreign nation, the Secretary shall issue to
 5 the Secretary of State a permit for each fishing vessel entitled
 6 thereto. The Secretary of State shall promptly transmit the
 7 permits to the foreign nation for distribution to the operators
 8 of such vessels.

9 (h) SUSPENSION OF REVOCATION OF PERMITS.—

10 (1) REPEATED VIOLATIONS.—If the Secretary
 11 finds that any fishing vessel to which a permit is issued
 12 pursuant to this section has been repeatedly used in the
 13 commission of acts prohibited by section 310(2) for
 14 which civil penalties are assessed pursuant to section 311,
 15 the Secretary may suspend the permit for such period of
 16 time as he deems appropriate, or may revoke the permit.

17 (2) FAILURE TO PAY ASSESSMENT.—In any case
 18 in which any fishing vessel to which a permit is issued
 19 pursuant to this section—

20 (A) is used in the commission of any act pro-
 21 hibited by section 310(2) and is not seized pursuant
 22 thereto; and

23 (B) a civil penalty is assessed pursuant to sec-
 24 tion 311 for such act,

No comparable Senate provision.

1 the Secretary shall, if such assessment is not paid within
 2 a reasonable time after the date of the assessment, sus-
 3 pend the permit until such time as the assessment is
 4 paid.

(3) PENALTY FOR FISHING DURING PERIOD OF
 6 PERMIT REVOCATION OR SUSPENSION.—Any fishing by
 7 a foreign vessel in the fishery zone, or seaward of the
 8 fishery zone for any anadromous species with respect to
 9 which a fishery management plan is implemented pur-
 10 suant to title III of this Act, during the period in which
 11 any permit issued pursuant to this section to such vessel
 12 is suspended or revoked pursuant to this subsection, shall
 13 be deemed to be a violation of the Act of May 20, 1964
 14 (as amended by section 402 of this Act).

(i) ISSUANCE OF WARNINGS.—In any case in which
 16 any officer authorized to enforce the provisions of this Act
 17 finds that a fishing vessel to which a permit has been issued
 18 under subsection (g) has been operated in such a manner as
 19 to constitute a violation of a condition or restriction accepted
 20 by the foreign nation concerned but that such violation is,
 21 in his judgment, a minor infraction, the officer may, in lieu of
 22 citing the master of such vessel for violation of section
 23 310 (2), issue the master of the vessel a warning. Any warn-
 24 ing issued pursuant to this subsection shall be noted in writing
 25 on the permit.

No comparable Senate provision.

(j) APPLICATION AND PERMIT FORMS.—The Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form for applications submitted pursuant to subsection (b) and for permits issued pursuant to subsection (g). The form prescribed for permits shall provide for the inclusion of such information as may be necessary to inform officers authorized to enforce the provisions of this Act of those conditions and restrictions accepted pursuant to subsection (g) which apply to the vessel.

[Sec. 102]

(k) SPECIAL TREATMENT FOR FISHERY MANAGEMENT PLANS WHICH APPLY SEAWARD OF THE FISHERIES ZONE TO ANADROMOUS SPECIES.—

(1) PLANS DEEMED UNILATERAL CONSERVATION MEASURES.—Any fishery management plan prepared pursuant to section 304 or 305(d) which in whole or part applies with respect to any anadromous species in any area of the high seas seaward of the fisheries zone shall be deemed to be a unilateral measure of conservation of the United States within the meaning of article 7

[Sec. 102]

Sec. 101. . . .

(b) ANADROMOUS SPECIES.—The United States shall exercise, throughout the migratory range of each applicable species, exclusive fishery management authority over anadromous species of fish spawned in the fresh and estuarine waters of the United States in the manner provided for in title II of this Act: *Provided*, That such management authority shall not extend to such species during the time they are found within the territorial sea or the fishery conservation zone (or the equivalent thereof) of any other nation, as recognized by the United States.

See section 100 (c) of Senate bill for negotiations regarding various
diversus species.

HOUSE

21 of the Convention on Fishing and Conservation of the
22 Living Resources of the High Seas.

23 (2) SUSPENSION OF TAKING EFFECT OF PLAN.—

24 Notwithstanding any other provision of this Act, no fish-
25 ery management plan referred to in paragraph (1), to

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1 the extent that it applies seaward of the fisheries zone,
2 shall enter into force and effect until the close of the
3 6-month period immediately following the date of the
4 promulgation of the regulations necessary to implement
5 the plan. During such 6-month period, the Secretary of
6 State shall—

7 (A) enter into negotiations pursuant to such
8 article 7 with the other contracting parties to such
9 Convention for the purpose of securing the consent
10 of the contracting parties to such plan and the regu-
11 lations implementing such plan; and

12 (B) enter into such other bilateral or multi-
13 lateral negotiations as may be appropriate in order
14 to obtain the consent of any foreign nation to such
15 plan and the regulations implementing such plan.

16 (3) ENTERING INTO FORCE AND EFFECT OF
17 PLAN.—After the close of the 6-month period referred
18 to in paragraph (2), the fishery management plan con-

19 turned, to the extent that it applies seaward of the fish-
 20 eries zone, and the regulations implementing such plan
 21 shall have force and effect within the area seaward of the
 22 fisheries zone to which it applies.

23 (4) SUSPENSION OF ENFORCEMENT BY THE
 24 UNITED STATES OF PLAN SEAWARD OF THE FISHERIES
 25 ZONE.—If permits are issued pursuant to subsection (g)

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1 to fishing vessels of any foreign nation which authorizes
 2 them to engage in fishing for any anadromous species to
 3 which a management plan referred to in paragraph (1)
 4 of this subsection applies, the United States shall not
 5 enforce the conditions and restrictions imposed with
 6 respect to such permits if the foreign nation gives written
 7 assurance to the Secretary of State that it will regulate
 8 such vessels in accordance with such conditions and re-
 9 strictions. This paragraph shall only apply if, and
 10 during such time as, the Secretary, after consultation
 11 with the Secretary of State, finds that—

(A) the penalties imposed by the foreign na-
 12 tion on its vessels are equivalent to the penalties
 13 imposed pursuant to section 311 for violation of any
 14 such condition or restriction; and
 15

HOUSE

P. 21

- 16 (B) such foreign nation stringently assesses
 17 such penalties against its vessels or nationals which
 18 violate such conditions and restrictions.

[Sec. 102]

- 19 (1) CONTINENTAL SHELF SPECIES.—Nothing in titles
 20 I, II, or III of this Act shall be construed to extend to any
 21 vessel not documented under the laws of the United States,
 22 or not registered under the laws of any State, the right or
 23 privilege to engage in fishing for any Continental Shelf
 24 species.

SENATE

P. 13

[Sec. 102]

SEC. 101. . . .

- (c) CONTINENTAL SHELF FISHERY RESOURCES.—
 The United States shall exercise exclusive fishery manage-
 ment authority over Continental Shelf fishery resources to
 the depth at which such resources can be exploited.

P. 13

[Sec. 201]

SEC. 102. (a) GENERAL.—The Secretary and the Sec-
 retary of State, after consultation with the Secretary of the
 Treasury, may authorize foreign fishing within the fishery
 conservation zone, for nondomestic species, or for Continental
 Shelf fishery resources, in accordance with the provisions of
 this section and subject, where appropriate, to (1) title II of
 this Act, and regulations promulgated under such title, and
 (2) sections 301 and 302 of this Act.

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[Sec. 201]

SEC. 102. . . .

- (f) PROHIBITION.—Except as provided pursuant to this
 Act, it shall be unlawful for any vessel, or for any master
 or other person in charge of any vessel, except a vessel of
 the United States, to engage in fishing in the internal
 waters, the territorial sea, or the fishery conservation zone

REMARKS

Section 102(a) and 102(f) of the Senate bill are repeated here to
 present all sections dealing with Continental Shelf fishery resources.

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SENATE

REMARKS

of the United States, or to engage in fishing for anadromous species or Continental Shelf fishery resources.

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1 **[Secs. 201; 202]**
2 **SEC. 202. TREATMENT OF CERTAIN EXISTING INTERNA-**

3 **TIONAL FISHERIES AGREEMENTS.**

4 **(a) APPLICATION OF ACT TO EXISTING AGREEMENTS.**

5 **MENTS.—**No international fisheries agreement (other than an
6 agreement which is a treaty within the meaning of section
7 2 of article II of the Constitution) which is in effect on
8 July 1, 1976, and which pertains to fishing in the waters
9 described in title I of this Act or which pertains to species
10 or stocks of fish, or fisheries, with respect to which the United
11 States may exercise management and conservation authority
12 pursuant to this Act, shall be extended or renewed except
13 pursuant to this Act.

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[Secs. 201; 202]
SEC. 103. . . .

[Sec. 202]

13 **(b) RENEGOTIATION OF TREATIES.—**The Secretary
14 of State, in consultation with the Secretary and the Secre-
15 tary of the department in which the Coast Guard is oper-
16 ating, shall initiate promptly after the date of the enactment
17 of this Act, the renegotiation of all treaties within the mean-
18 ing of section 2 of article II of the Constitution which per-

(b) REVIEW.—The Secretary of State shall immediately
review, in cooperation with the Secretary, each treaty, con-
vention, and other international agreement to determine
whether the provisions of such agreements are consistent
with the purposes, policy, and provisions of this Act. If
any provision or terms of any such agreement are not so

No comparable Senate provision.

HOUSE

SENATE

REMARKS

19 gain to fishing in the waters described in title I of this Act or
 20 which pertain to species, or stocks of fish, or fisheries, with
 21 respect to which the United States may exercise management
 22 and conservation authority pursuant to this Act, in order to
 23 conform such treaties to the provisions and requirements of
 24 this Act.

[Sec. 203]

25 (c) REPORTS TO CONGRESS.—The Secretary of State

P. 23

1 shall submit to the Congress a written report on or before
 2 May 15, 1976, and annually thereafter, on the results of the
 3 negotiations which he is required to initiate under subsec-
 4 tion (b).

[Sec. 201]

5 SEC. 201. NEGOTIATIONS TO SECURE CERTAIN UNITED
 6 STATES FOREIGN FISHING RIGHTS.

7 (a) COMMENCEMENT OF NEGOTIATIONS.—The Sec-
 8 retary of State, upon the request of and in cooperation with
 9 the Secretary, shall initiate and conduct negotiations with
 10 any foreign nation in whose fishery conservation zones, or
 11 its equivalent, vessels of the United States are engaged, or
 12 wish to be engaged, in fishing, or with respect to anadromous
 13 species or Continental Shelf fishery resources as to which
 14 such nation asserts management authority and for which
 15 vessels of the United States fish, or wish to fish. The pur-

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consistent, the Secretary of State shall initiate negotiations
 to amend or terminate such agreements by not later than
 January 1, 1977.

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INTERNATIONAL FISHERY AGREEMENTS

[Sec. 202]

SEC. 103. (a) GENERAL.—(1) The Secretary of State,
 in cooperation with the Secretary, shall initiate and conduct
 negotiations with any foreign nation which, prior to the date

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of enactment of this Act, has been engaged in, or whose
 citizens have been engaged in, or wish to engage in, fishing
 within the fishery conservation zone of the United States, or
 for anadromous species or Continental Shelf fishery re-
 sources. The Secretary of State, upon the request of and in
 cooperation with the Secretary, shall, in addition, initiate and
 conduct negotiations with any foreign nation in whose fishery

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conservation zone, or its equivalent, vessels of the United States are engaged, or wish to be engaged, in fishing, or with respect to anadromous species or Continental Shelf fishery resources as to which such nation asserts management authority and for which vessels of the United States fish, or wish to fish. The Secretary of State, upon the request of and in cooperation with the Secretary, shall, in addition, initiate and conduct negotiations with any foreign nation in whose fishery conservation zone or its equivalent, anadromous species spawned or fish spawned in the fresh and estuarine waters of the United States are found for the conservation of such species of fish. The purpose of such negotiations shall be to conclude international fishery agreements to effectuate the purpose, policy, and provisions of this Act.

(2) Such agreements may include, but need not be limited to, agreements to provide for the management and conservation of—

P. 18

(A) coastal species which are found both in the fishery conservation zone of the United States and in an adjacent foreign nation's equivalent of such zone;

(B) anadromous species which are found, during the course of their migration, in ocean areas subject to

HOUSE

pose of such negotiations shall be to conclude international fishery agreements which shall permit United States vessels equitable access to such fish, consistent with reasonable management and conservation practices, within such nation's fishery conservation zone or its equivalent.

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the fishery management authority of more than one nation, or which intermingle on the high seas with anadromous species originating in the rivers and estuaries of other nations;

(C) highly migratory species which may be covered by international fishery agreements; and

(D) coastal species or Continental Shelf fishery resources which are found in areas subject to the fishery management authority of any foreign nation, through measures which allow vessels of the United States to harvest an appropriate portion of such species in accordance with traditional fishing by vessels of the United States.

See section 204 of House bill regarding negotiations on highly migratory species.

【Sec. 202(e)】 P. 19

Sec. 103 . . .

(d) NONRECOGNITION.—It is the sense of the Congress that the United States Government shall not recognize the claim of any foreign nation to a fishery conservation zone, or its equivalent, beyond 12 nautical miles from the baseline from which the territorial sea is measured, if such nation—

- (1) fails to recognize traditional fishing activity of vessels of the United States, if any, within such zone;
- (2) fails to recognize traditional fishing activity of vessels of the United States with respect to anadromous

No comparable House provision.

HOUSE

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species or Continental Shelf fishery resources as to which such nation asserts management authority; or

(3) fails to recognize and accept that highly migratory species are to be managed by applicable international fishery agreements, whether or not such nation is a party to any such agreement.

[Sec. 205]

P. 19

Sec. 103.

(e) IMPORT PROHIBITION.—(1) If after a reasonable

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period of time the Secretary of State is unable to achieve an agreement affording vessels of the United States an appropriate portion of fish stocks found in areas subject to the fishery management jurisdiction of any foreign nation, in accordance with traditional fishing practices of such vessels and under conditions equal to those established under section 102 of this Act, and determines that such nation—

(A) has refused to commence negotiations;

(B) has failed to negotiate in good faith; or

(C) is not complying with its obligations under any existing agreement concerning fishing by United States vessels for fish stocks subject to such nation's fishery management jurisdiction,

he shall certify such determination to the Secretary of the Treasury.

[Sec. 205]

(b) ACTION IF FOREIGN NATION REFUSES TO NEGOTIATE OR VIOLATES TREATY.— If the Secretary of State determines that—

(A) any foreign nation is refusing to commence

P. 24

1 negotiations with the United States in order to achieve
2 the purpose of subsection (a); or

3 (B) although an international fishery agreement

4 which achieves the purpose of subsection (a) is in force

5 and effect, the foreign nation is not complying with its

6 obligations under the agreement,

7 he may certify that determination to the Secretary of the

8 Treasury. Upon receipt of any such certification, the Secre-

9 tary of the Treasury shall immediately take such action as

10 may be necessary and appropriate to prohibit the importa-

11 tion into the customs territory of the United States of any

12 seafood product of that foreign nation.

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(2) If any United States vessel, while fishing in waters beyond twelve nautical miles from the baseline from which a foreign nation's territorial sea is measured, is seized by such nation—

(A) as a consequence of a claim of jurisdiction which is not recognized by the United States; or

(B) such seizure is in violation of an existing international agreement or is not permitted by an agreement between the United States and such nation, the

P. 21

Secretary of State shall certify such action to the Secretary of the Treasury.

(3) Upon receipt of any such certification from the Secretary of State under paragraph (1) or (2) of this subsection, the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the customs territory of the United States of any fish or fish products from the fishery involved.

(4) Any import prohibition imposed under this subsection shall remain in effect (A) until an agreement is achieved, (B) until such nation complies with its obligations under such existing agreement, or (C) until the seized vessel and its catch are released, as appropriate.

HOUSE

(c) DURATION OF IMPORT PROHIBITION.—Any import prohibition which is imposed pursuant to subsection (b) shall remain in effect—

(1) if the prohibition was imposed by reason of subsection (b) (A), until such time as the Secretary of State certifies to the Secretary of the Treasury that such foreign nation has commenced negotiations in order to achieve the purpose of subsection (a) ; or

(2) if the prohibition was imposed by reason of subsection (b) (B), until such time as the Secretary of State certifies to the Secretary of the Treasury that the foreign nation is complying with its obligations under the international fishery agreement.

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(d) DEFINITION.—For purposes of this section, the term "seafood product" means any fish which is the product of a foreign nation, and any article which is the product of such nation and which is composed in whole or part of any fish which is the product of such nation.

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(5) For the purposes of this section, the term "fish" or "fish products" means any fish, or any article which is the product of or which is composed in whole or part of such fish, caught by vessels other than vessels of the United States.

[Sec. 103]

6 SEC. 204. NEGOTIATIONS REGARDING HIGHLY MIGRATORY
7 SPECIES.

8 The Secretary of State, upon the request of, and in co-
9 operation with, the Secretary, shall initiate and conduct
10 negotiations with any foreign nation participating in a
11 fishery for any highly migratory species for the purpose of
12 entering into international fisheries agreements that would
13 establish an appropriate international fisheries organiza-
14 tion having authority to manage and conserve such highly
15 migratory species.

[Sec. 401]

16 SEC. 205. MULTILATERAL CONVENTION.

17 If the United States ratifies a multilateral convention
18 resulting from any United Nations Conference on the
19 Law of the Sea which contains provisions with respect to
20 the breadth of the territorial sea and the fisheries or economic
21 zone, the Secretary, in consultation with the Secretary of
22 State, may promulgate pursuant to section 307 such changes,
23 if any, in the regulations issued pursuant to this Act as may
24 be necessary or desirable to conform such regulations with

P. 21

TERMINATION OF TITLE

[Sec. 401]

SEC. 104. The provisions of this title shall expire and
cease to be of any legal effect on such date as a law of the sea
treaty (or other comprehensive treaty, convention, or agree-
ment with respect to fishery jurisdiction, which the United
States has signed or is a party to) shall come into force or
be provisionally applied by the United States.

SENATE BILL—(see generally sections 108(a) and 108(b)(9)(C).

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1 the provisions of such convention in anticipation of the date
 2 when such convention shall come into force and effect or
 3 otherwise be applicable to the United States.

[Sec. 403]

4 SEC. 206. CONGRESSIONAL DISAPPROVAL OF CERTAIN IN-

5 TERNATIONAL FISHERIES AGREEMENTS.

6 (a) TAKING EFFECT OF INTERNATIONAL FISHERIES

7 AGREEMENTS.—Any international fishery agreement (other

8 than an agreement which is a treaty within the meaning of

9 section 2 of article II of the Constitution) entered into after

10 the date of the enactment of this Act, and any amendment

11 entered into after such date to any international fishery agree-

12 ment entered into before such date, shall enter into force and

13 effect with respect to the United States if (and only if) —

14 (1) the President delivers a copy of the agreement

15 to the House of Representatives and a copy to the Sen-

16 ate; and

17 (2) before the close of the 60-day period which

18 begins on the day on which copies of such agreement are

19 delivered to the House of Representatives and to the

20 Senate, neither the House of Representatives nor the

21 Senate adopts, by an affirmative vote of the majority of

22 those present and voting in that House, a resolution of

23 disapproval.

24 (b) RESOLUTION OF DISAPPROVAL.—For purposes of

25 this section, the term “resolution of disapproval” means only

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1 a resolution of either House of Congress, the matter after the
 2 resolving clause of which is as follows: "That the
 3 does not favor the taking effect of the international fishery
 4 agreement transmitted to the Congress by the President on
 5 " , the first blank space therein being filled with
 6 the name of the resolving House and the second blank space
 7 therein being filled with the day and year.

(c) PROCEDURE IN EACH HOUSE.—

8
 9 (1) A resolution of disapproval in the House of
 10 Representatives shall be referred to the Committee on
 11 Merchant Marine and Fisheries. A resolution of disap-
 12 proval in the Senate shall be referred to the Committee
 13 on Commerce.

14 (2) (A) If the committee to which a resolution of
 15 disapproval has been referred has not reported it at the
 16 end of 7 calendar days after its introduction, it is in
 17 order to move either to discharge the committee from
 18 further consideration of the resolution or to discharge the
 19 committee from further consideration of any other reso-
 20 lution of disapproval of the same international fishery
 21 agreement which has been referred to the committee.

22 (B) A motion to discharge may be made only by
 23 an individual favoring the resolution, is highly privileged
 24 (except that it may not be made after the committee
 25 has reported a resolution of disapproval), and debate

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thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution of disapproval of the same international fidelity agreement.

(3) (A) When the committee has reported, or has been discharged from further consideration of, a resolution of disapproval, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate on the resolution of disapproval shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not

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1 debatable. An amendment to, or motion to recommit, the
2 resolution is not in order, and it is not in order to move
3 to reconsider the vote by which the resolution is agreed
4 to or disagreed to.

5 (4) (A) Motions to postpone, made with respect to
6 the discharge from committee or the consideration of
7 a resolution of disapproval, and motions to proceed to
8 the consideration of other business, shall be decided
9 without debate.

10 (B) Appeals from the decisions of the Chair re-
11 lating to the application of the rules of the House of
12 Representatives or the Senate, as the case may be, to
13 the procedure relating to any resolution of disapproval
14 shall be decided without debate.

15 (5) Whenever the President transmits copies of
16 any international fisheries agreement to the Congress, a
17 copy of such agreement shall be delivered to each House
18 of Congress on the same day and shall be delivered to the
19 Clerk of the House of Representatives if the House is not
20 in session and to the Secretary of the Senate if the Sen-
21 ate is not in session.

22 (6) This subsection is enacted by the Congress—

23 (A) as an exercise of the rulemaking power
24 of the House of Representatives and the Senate, re-
25 spectively, and as such it is deemed a part of the

HOUSE

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1 rules of each House, respectively, but applicable
 2 only with respect to the procedure to be followed in
 3 that House in the case of resolutions of disapproval
 4 described in subsection (b); and they supersede
 5 other rules only to the extent that they are incon-
 6 sistent therewith; and
 7 (B) with full recognition of the constitutional
 8 right of either House to change the rules (so far
 9 as relating to the procedures of that House) at any
 10 time, in the same manner, and to the same extent
 11 as in the case of any other rule of that House.

TITLE III—MANAGEMENT OF THE FISHERIES

[Sec. 102]

12 SEC. 301. UNITED STATES JURISDICTION OVER CERTAIN
 13 FISHERIES.

14 (a) IN GENERAL.—The fisheries management respon-
 15 sibility and authority of the United States extends to—

16 (1) any coastal species within the fisheries zone;

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TITLE I—FISHERY MANAGEMENT JURISDICTION OF THE UNITED STATES

EXTENT OF JURISDICTION

[Sec. 101]

SEC. 101. (a) FISHERY CONSERVATION ZONE.—(1)

There is established a zone contiguous to the territorial sea of the United States to be known as the fishery conservation zone. Within such zone the United States shall, except as provided in subsection (d) of this section, exercise exclusive fishery management authority.

Title I of Senate bill combines reestablishment of the Zone with state-
 ment of management authority and is inserted here for purposes of com-
 parison of management authority.

No specific reference to coastal species in Senate bill.

HOUSE

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P. 12

[Sec. 102]

SEC. 101.

19 (2) any anadromous species wherever found
 20 throughout the range of such species in the high seas;
 21 and

(b) ANADROMOUS SPECIES.—The United States shall exercise, throughout the migratory range of each applicable species, exclusive fishery management authority over anadromous species of fish spawned in the fresh and estuarine waters of the United States: *Provided*, That such management authority shall not extend to such species during the time they are found within the territorial sea or the fishery conservation zone (or the equivalent thereof) of any other nation, as recognized by the United States.

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[Sec. 102]

SEC. 101 . . .

22 (3) any Continental Shelf species.

(c) CONTINENTAL SHELF FISHERY RESOURCES.—The United States shall exercise exclusive fishery management authority over Continental Shelf fishery resources to the depth at which such resources can be exploited.

[Sec. 103]

SEC. 101 . . .

23 [Sec. 103]
 24 (b) INTERNATIONAL REGULATION OF HIGHLY
 25 MIGRATORY SPECIES.—The fisheries management responsibility and authority of the United States under this Act does

(d) HIGHLY MIGRATORY SPECIES.—The exclusive fishery management authority of the United States shall not include or be construed to extend to highly migratory species of fish. Such species shall be managed solely pursuant to international fishery agreements established for such purpose.

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1 not extend to highly migratory species, and the United States
 2 shall not recognize the right of any foreign country to extend
 3 its rights, claims, or jurisdiction to such species. Such species
 4 shall be managed pursuant to international fishery agree-
 5 ments established for such purpose.

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REMARKS

【Sec. 304(c)】

6 SEC. 302. FISHERIES MANAGEMENT RESPONSIBILITIES

7 OF THE SECRETARY.

8 (a) IN GENERAL.—Subject to the provisions of this
9 Act, the Secretary shall manage all fisheries over which the
10 United States has fishery management responsibility and au-
11 thority under section 301 (a). The management of any such
12 fishery shall result in the regulation of fishing in that fishery
13 by any vessel documented under the laws of the United
14 States or registered under the laws of any State and by any
15 other vessel in such manner as is necessary and appropriate
16 to carry out the policy and purposes of this Act.

17 (b) MANAGEMENT PURSUANT TO MANAGEMENT

18 PLAN.—Except as provided in section 303(d) or 308,

19 the Secretary may not manage any fishery under the au-

20 thority of subsection (a) except in accordance with a man-

21 agement plan which is prepared pursuant to section 304 for

22 such fishery.

【Sec. 304】 P. 35

Sec. 203. . . .

(a) REGULATIONS.—The Secretary is authorized to promulgate regulations, in accordance with the provisions of

P. 36

this title and section 553 of title 5, United States Code, with-
out regard to subsection (a) thereof, to govern fishing by
vessels of the United States and foreign fishing (1) within
the fishery conservation zone (and vessels of the United
States fishing for coastal species beyond such zone), (2) for
anadromous species, and (3) Continental Shelf fishery re-
sources. In addition, such regulations shall pertain to, but
need not be limited to, the operation of the Councils, the set-
ting of fees, procedures for obtaining data and statistics relat-
ing to fishing, and other matters relating to the purposes of
this Act. Such regulations shall provide for full consultation
and cooperation with all other interested Federal agencies
and departments, with any coastal State, and with any for-
eign nation, through the Secretary of State, and for considera-
tion of the views of any interested member of the general
public. The Secretary is further authorized, consistent with
the purposes and provisions of this title, to amend or rescind
any such regulations.

No Senate provision directly analogous to section 302(a) (b) of House bill.

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[Sec. 301]

(c) NATIONAL FISHERIES MANAGEMENT STAND-

24 ARMS.—The management of the fisheries pursuant to this

P. 22

1 Act shall be consistent with the following national fisheries

2 management standards:

P. 22

3 (1) Management and conservation measures shall

4 be based upon the best scientific biological information

5 available.

6 (2) To the extent possible, an individual stock of

7 fish shall be managed throughout its range.

P. 22

8 (3) Management and conservation measures shall

9 not discriminate between residents of different States.

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TITLE II—NATIONAL FISHERY MANAGEMENT

PROGRAM

NATIONAL STANDARDS

[Sec. 301(a)]

SEC. 201. (a) GENERAL.—Fishery management plans

developed by the Councils, and management regulations pro-

mulgated by the Secretary, pursuant to this title, shall conform

to the following national standards for fishery management

and conservation:

P. 22

(2) Management and conservation measures shall

be based upon the best scientific information available.

P. 22

(3) To the extent possible, an individual stock of

fish shall be managed as a unit throughout its range

and interrelated stocks of fish shall be managed as a unit

or in close coordination.

P. 22

(4) Management and conservation measures shall

not discriminate between residents of different States.

If it becomes necessary to allocate or assign fishing privi-

leges among various United States fishermen, such alloca-

tion shall be (A) fair and equitable to all such fishermen;

(B) reasonably calculated to promote conservation; and

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(C) carried out in such manner that no particular indi-

P. 23

vidual, corporation, or other entity acquires an excessive share of such privileges.

P. 22

(1) Management and conservation measures shall prevent overfishing and assure on a continuing basis, the optimum yield for each fishery.

P. 23

(5) Management and conservation measures shall, where appropriate, promote efficiency in the utilization of fishery resources, except that any such measures shall not have economic allocation as its sole purpose.

P. 23

(6) Management and conservation measures shall allow for unpredicted variations in fishery resources and their environment and for contingencies and possible delays in application.

P. 23

(7) Management and conservation measures shall, where appropriate, minimize research, administration, and enforcement costs and shall avoid unnecessary duplication.

Concept embodied in (1) above of Senate text.

HOUSE

(4) Management and conservation measures shall be designed to achieve the optimum sustainable yield of a stock of fish on a continuing basis.

(5) Management and conservation measures shall promote efficiency in harvesting techniques.

(6) Management and conservation measures shall be formulated to allow for unpredicted variations in fishery resources and their environment and for possible delay in the application of such measures.

(7) Management and conservation measures shall not result in unreasonable administration or enforcement costs.

(8) Management and conservation measures shall be designed to prevent depletion of fisheries resources.

HOUSE

SENATE

REMARKS

[Sec. 301(b)]

P. 23

(b) GUIDELINES.—The Secretary shall establish guidelines, based on the national standards, for the Councils to follow in developing fishery management plans and in developing recommended regulations for the management and conservation of fisheries.

No comparable House provision.

[Sec. 302]

24 SEC. 302. REGIONAL MARINE FISHERIES COUNCILS.

25 (a) ESTABLISHMENT.—There are established seven re-

P. 33

1 gional marine fisheries councils to be known respectively as
 2 the New England Marine Fisheries Council, the Mid-At-
 3 lantic Marine Fisheries Council, the Southern Atlantic
 4 Marine Fisheries Council, the Gulf Marine Fisheries Council,
 5 the Pacific Marine Fisheries Council, the Alaska Marine
 6 Fisheries Council, and the Western Pacific Marine Fisheries
 7 Council (hereinafter referred to in this Act as the "Council"
 8 or the "Councils"). The States represented by each respec-
 9 tive Council shall be as follows:

10 New England Marine Fisheries Council
 11 Maine;
 12 New Hampshire;
 13 Massachusetts;
 14 Rhode Island; and

[Sec. 302]

REGIONAL FISHERY MANAGEMENT COUNCILS

P. 23

SEC. 302. (a) ESTABLISHMENT.—There shall be estab-
 lished, within 120 days after the date of enactment of this
 Act, seven Regional Fishery Management Councils, as
 follows—

P. 24

(1) The North Atlantic Fishery Management Coun-
 cil (hereafter in this title referred to as the "North
 Atlantic Council"). The North Atlantic Council, which
 shall consist of the States of Maine, New Hampshire,
 Massachusetts, Rhode Island, Connecticut, New York,

Senate bill establishes two Atlantic Coast Councils vs. three in House bill.

15

Connecticut.

16

Mid-Atlantic Marine Fisheries Council

17

New York;

18

New Jersey;

19

Delaware;

20

Pennsylvania;

21

Maryland; and

22

Virginia.

23

Southern Atlantic Marine Fisheries Council

24

North Carolina;

25

South Carolina;

P. 34

1

Georgia;

2

Florida;

3

The Commonwealth of Puerto Rico; and

4

The Virgin Islands.

P. 24

New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, shall be concerned with the fisheries in the Atlantic Ocean seaward of such States.

P. 24

(2) The South Atlantic Fishery Management Council (hereafter in this title referred to as the "South Atlantic Council"). The South Atlantic Council, which shall consist of the States of North Carolina, South Carolina, Georgia, and Florida, shall be concerned with the fisheries in the Atlantic Ocean seaward of such States.

P. 25

(5) The Caribbean Fishery Management Council (hereafter in this title referred to as the "Caribbean Council"). The Caribbean Council, which shall consist of the Virgin Islands and the Commonwealth of Puerto Rico, shall be concerned with the fisheries in the Caribbean seaward of such States.

House bill assigns Puerto Rico and Virgin Islands to Southern Atlantic and Gulf Councils.

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P. 24

(3) The Gulf of Mexico Fishery Management Council (hereafter in this title referred to as the "Gulf Council"). The Gulf Council, which shall consist of the States of Texas, Louisiana, Mississippi, Alabama, and Florida, shall be concerned with the fisheries in the Gulf of Mexico seaward of such States.

P. 24

(4) The Pacific Fishery Management Council (hereafter in this title referred to as the "Pacific Council"). The Pacific Council, which shall consist of the States of California, Oregon, Washington, Idaho,

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and Alaska, shall be concerned with the fisheries in the Pacific Ocean seaward of California, Oregon, and Washington.

Alaska not included on Pacific Council in House bill.

P. 25

(6) The North Pacific Fishery Management Council (hereafter in this title referred to as the "North Pacific Council"). The North Pacific Council, which shall consist of the States of Alaska, Oregon, and Washington, shall be concerned with the fisheries in the northern Pacific Ocean seaward of Alaska.

Gulf Marine Fisheries Council

Texas;
Louisiana;
Mississippi;
Alabama;
Florida;
The Commonwealth of Puerto Rico; and
The Virgin Islands.
Pacific Marine Fisheries Council
California;
Oregon;
Washington; and
Idaho.

Alaska Marine Fisheries Council

Alaska;
Oregon; and
Washington.

22	HOUSE	SENATE	REMARKS
	Western Pacific Marine Fisheries Council	P. 25	House bill does not include Trust Territory of the Pacific Islands.
	Hawaii;		
	American Samoa; and		
	Guam.		
		(7) The Outer Pacific Fishery Management Council (hereafter in this title referred to as the "Outer Pacific Council"). The Outer Pacific Council, which shall consist of the States of Hawaii, American Samoa, Guam, and the Trust Territories of the Pacific, shall be concerned with the fisheries seaward of such States.	
		[Sec. 302]	
	P. 35	P. 25	
	(b) MEMBERSHIP OF COUNCILS.—	Sec. 202 . . .	
	(1) NUMBER AND APPOINTMENT.—Each Council established by subsection (a) shall consist of the following members:	(b) REPRESENTATION OF STATES.—Each Regional Fishery Management Council shall reflect the expertise and interests of the several identified States in the ocean area over which such Council is granted authority. Each identified State	
	(A) the Executive Director of the Marine Fisheries Commission for the geographical area concerned;	P. 26	
		is entitled to three members on each applicable Council, except that in the case of the Caribbean Council, the Virgin Islands and Puerto Rico are entitled to four members each, and in the case of the North Pacific Council, Alaska is entitled to five members, and Oregon is entitled to one member.	
		at least one of whom shall be a	
	(B) the head of the agency responsible for fisheries management and conservation of each State represented on the Council,	State official with expertise in fishery management	Extract from section 902(c) Senate bill
	except that in the case of the Alaska Marine Fisheries Council, the	and in the case of the North Pacific Council, Alaska is entitled to five members	
			Extract from section 902(b) above.

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SENATE

【Sec. 302】 P. 27

Sec. 202 (c) . . .

(2) The President shall appoint, upon the recommendation of the Secretary, a Federal Government employee to serve as a nonvoting member on each Council as the representative of the Secretary.

HOUSE

head of such agency in Alaska and two additional members appointed by, and serving at the pleasure of, the Governor of Alaska;

(C) the Regional Director of the National Marine Fisheries Service for the geographical area concerned;

(D) the Regional Director of the United States Fish and Wildlife Service for the geographical area concerned;

(E) six members (other than officers or employees of the Federal Government or of any State government) appointed by the Secretary from a list prepared by the members specified in subparagraphs (A), (B), (C), and (D) of this paragraph

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of not less than 20 individuals having knowledge and experience in commercial or recreational fishing, and such appointments shall fairly reflect the degree to which commercial and recreational fishermen participate in the fisheries in the geographical area concerned; and

HOUSE

7 (F) two members (other than officers or em-
 8 ployees of the Federal Government or of any State
 9 government or individuals referred to in subpara-
 10 graph (E)) who shall represent the public interest
 11 and who shall be appointed by the Secretary from a
 12 list prepared by the members specified in subpara-
 13 graphs (A), (B), (C), and (D) of this paragraph
 14 of not less than six individuals.

15 A vacancy in any Council shall be filled in the manner
 16 in which the original appointment was made.

SENATE

House bill contains limited Federal appointments by Secretary of
 Commerce. Senate bill requires all voting council members to be
 appointed by President with ministerial advice and consent.

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Successors to such
 members shall be appointed in the same manner as the original
 members,

Extract from section 202(c) Senate bill.

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【Sec. 302】
 SEC. 202 . . .

(c) APPOINTMENTS.—(1) The Governor of each State
 entitled to membership on a Council may submit to the
 President a list setting forth the names of individuals quali-
 fied to be appointed as members of such Council as repre-
 sentatives of each such State. The President shall appoint,
 by and with the advice and consent of the Senate, the mem-
 bers to represent each State in the number set forth in sub-
 section (b) of this section, at least one of whom shall be a
 State official with expertise in fishery management. The terms
 of office of the members first taking office shall expire as
 designated by the President at the time of nomination—one
 at the end of the second year, one at the end of the fourth

No comparable House provision.

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year, and one at the end of the sixth year. Successors to such members shall be appointed in the same manner as the original members, except that members who have faithfully attended and effectively contributed, in the public interest, to the functioning of such Council are eligible for reappointment. The terms of office of successors to such members shall expire 6 years from the date of expiration of the terms for which their predecessors were appointed. Any individual appointed

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to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of such term. As used in this paragraph, a "qualified" individual is one who is knowledgeable and capable of making sound judgments in the public interest with respect to the management and conservation of fishery resources.

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[Sec. 302]

Sec. 202. (c) . . .

(4) (a) The Governor of each State entitled to membership on a Council wishing to submit to the President, pursuant to this subsection, a list of names setting forth the individuals qualified to be appointed as members of such Council as representatives of each such State shall submit such a list to the President not later than 45 days after the date of enactment of this Act.

See preceding page.

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(b) Presidential appointments pursuant to this subsec-

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tion shall be sent to the Senate for confirmation no later than 90 days after the date of enactment of this Act.

(2) CONTINUATION OF MEMBERSHIP.—If any member of any Council who was appointed to such Council pursuant to paragraph (1) (A), (B), (C), or (D) leaves the office he is holding at the time of appointment, or if any member of any Council who was appointed from persons who are not officers or employees of any government becomes an officer or employee of any government, he may continue as a member of such Council for not longer than the 90-day period beginning

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on the date he leaves that office or becomes such an officer or employee, as the case may be.

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The terms of office of the members first taking office shall expire as designated by the President at the time of nomination—one at the end of the second year, one at the end of the fourth year, and one at the end of the sixth year.

(3) TERMS.—

(A) Except as provided in subparagraphs (B) and (C) of this paragraph, any member appointed pursuant to paragraph (1) (E) or (F) shall be appointed for a term of 3 years.

(B) Of the members first appointed pursuant to paragraph (1) (E) —

No comparable provision in Senate version.

Extract from section 202 (c) of Senate bill.

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10 (i) two shall be appointed for a term of 1
 11 year,
 12 (ii) two shall be appointed for a term of 2
 13 years, and
 14 (iii) two shall be appointed for a term of 3
 15 years,
 16 as designated by the Secretary at the time of ap-
 17 pointment.
 18 (C) Of the members first appointed pursuant to
 19 paragraph (1) (F) —
 20 (i) one shall be appointed for a term of 2
 21 years; and
 22 (ii) one shall be appointed for a term of 3
 23 years,
 24 as designated by the Secretary at the time of ap-
 25 pointment.

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1 (D) Any member appointed to fill a vacancy
 2 occurring prior to the expiration of the term for
 3 which his predecessor was appointed shall be ap-
 4 pointed only for the remainder of such term. A
 5 member may serve after the expiration of his term
 6 until his successor has taken office.

The terms of office of successors to such members shall expire
 6 years from the date of expiration of the terms for which
 their predecessors were appointed.

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Any individual appointed to fill a vacancy occurring prior to
 the expiration of any term of office shall be appointed for the
 remainder of such term.

Extract from section 902(c) of Senate bill.

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(F) Any individual appointed pursuant to paragraph (1) (E) or (F) is eligible for reappointment.

【Sec. 302】

(c) PAY AND TRAVEL EXPENSES.—

(1) PER DIEM RATE.—Members of each Council, other than members who are full-time officers or employees of the United States or any State, shall each be entitled to receive \$100 for each day (including travel-time) during which they are engaged in the actual performance of duties vested in the Council.

(2) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for any Council, the members thereof shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 (1) of title 5 of the United States Code.

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except that members who have faithfully attended and effectively contributed, in the public interest, to the functioning of such Council are eligible for reappointment.

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【Sec. 302】

SEC. 202 (c) . . .

(3) Members of a Council, who are not otherwise employed in any capacity by the Federal or any State or local government, shall receive compensation at the daily rate for GS-18 of the General Schedule, when engaged in the actual performance of duties for such Council, and all members shall be reimbursed for actual expenses incurred in the performance of such duties.

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【Sec. 302】

SEC. 202 . . .

(d) POWERS AND FUNCTIONS.—In addition to any other function assigned under any other provision of this Act, each Council, in accordance with the provisions of this title—

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Extract from section 302(c) of Senate bill.

This section of Senate bill appears to combine provisions of the following House sections and section (d), page 40 of analysis.

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19 Secretary, the head of any Federal agency is authorized
 20 to detail, on a reimbursable basis, any of the personnel
 21 of such agency to the Council to assist it in carrying
 22 out its functions under this Act.

23 (3) SUPPORT SERVICES.—The Administrator of
 24 General Services, after consultation with the Secretary,
 25 shall provide to any Council on a reimbursable basis

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1 such administrative support services as the Council may
 2 request.

3 (4) STATEMENT OF ORGANIZATION.—Each Coun-
 4 cil, after consultation with the Secretary, shall publish
 5 and make available to the public a statement of the or-
 6 ganization, procedure, and practices of the Council.

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【Sec. 302】
 SEC. 202 . . .

(c) SUPPORT.—The Secretary shall provide to each
 Council such administrative support as is necessary for effec-
 tive functioning.

【Sec. 304】

(e) REGULATIONS.—The Secretary is authorized to
 promulgate regulations, in accordance with the provisions of
 this title and section 553 of title 5, United States Code, with-
 out regard to subsection (a) thereof, . . .

In addition, such regulations shall pertain to, but
 need not be limited to, the operation of the Councils, . . .

The Secretary is further authorized, consistent with the
 purposes and provisions of this title, to amend or rescind any
 such regulations.

Extract from section 303(e) Senate bill. Councils may adopt own
 procedures and regulations. House bill. Senate bill gives Secretary authority
 over the Council procedures.

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【Sec. 302】

Sec. 202 . . .

【Sec. 302】

7 (1) ADVISORY PANELS.— Each Council may establish
8 advisory panels to assist the Council in carrying out its
9 functions under this Act.

(1) COMMITTEES.—(1) Each Council shall establish, maintain, and appoint the members of, a scientific and statistical committee to assist it in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to management plans or recommended regulations. Each such committee shall be composed of (A) not more than six fisheries scientists and experts, and (B) the director of the appropriate regional

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research center of the National Marine Fisheries Service, who shall serve as the Chairman.

(2) Each Council shall establish and maintain ad hoc or standing committees for each individual fishery identified by it as in need of conservation, to the extent necessary to assist such Council in the preparation of (A) management programs, (B) recommended regulations, and/or (C) changes or amendments to existing plans or regulations. The members of such committees shall be appointed by the respective Councils, and they shall be selected to represent persons who are actually engaged in the fishery involved and to include other persons knowledgeable and interested in the conservation of such fishery.

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(3) Members of the committees established pursuant to paragraph (1) and (2) of this subsection shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as provided in section 5703 of title 5, United States Code, for persons in Government service intermittently.

【Sec. 302】 P. 28
Sec. 202

(d) POWERS AND FUNCTIONS.—In addition to any other function assigned under any other provision of this Act, each Council, in accordance with the provisions of this title—

【Sec. 302】 P. 29
Sec. 202. . . (d)

(7) shall conduct public hearings, at appropriate times and in appropriate locations, so as to allow all interested persons an opportunity to be heard on (A) the overall fishery management plan; (B) any separate management program; (C) recommended regulations; and (1) any amendments to regulations.

【Sec. 302】 P. 28
Sec. 202. . . (d)

(3) shall identify fisheries in need of conservation within its geographic area of authority;

【Sec. 302】 P. 40

(g) FUNCTIONS.—

(1) IN GENERAL.—Each Council shall—

(A) solicit, by means of public hearings to the extent practicable, and evaluate on a continuing basis comments and recommendations from all interested persons in the geographical area concerned with respect to the administration and implementation of the provisions of this Act;

(B) develop fishery management plans pursuant to section 304 for adoption by the Secretary,

HOUSE	SENATE	REMARKS
20	【Sec. 302】	
21	Sec. 202 . . . (d)	(4) shall develop, and submit to the Secretary, an overall fishery management plan, including separate programs for each fishery, within its respective geographic area of authority, which is in need of management and conservation;
22	section; and	
23	【Sec. 302】	P. 29
24	Sec. 202 . . . (d)	(9) shall report to the Secretary on its activities, plans, programs, findings, and such other matters as are requested.
1	【Sec. 302】	P. 28
2	Sec. 202 (d) . . .	(6) shall monitor fishing activity and review the impact of management regulations within its geographic area of authority and may recommend to the Secretary any appropriate amendments or changes therein;
	【Sec. 302】	P. 29
	Sec. 202 (d) . . .	(8) may otherwise carry out such other functions as are necessary and appropriate for the effective management and conservation of fishery resources within its geographic area of authority; and
A		No comparable House provision.
		No comparable House provision.

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3 (2) STATEMENT OF DISAGREEMENT.—If any mat-
 4 ter submitted to the Secretary pursuant to subparagraph
 5 (B) or (C) of paragraph (1) did not receive the
 6 unanimous vote of the Council, the members of the
 7 Council in disagreement may submit to the Secretary a
 8 statement setting forth the reasons for their disagreement.

[Sec. 302]

9 SEC. 304. PREPARATION OF FISHERY MANAGEMENT

10 PLANS BY COUNCILS.

11 (a) PLANS PREPARED ON INITIATIVE OF COUNCIL OR
 12 AT REQUEST OF SECRETARY.—

13 (1) ON INITIATIVE OF COUNCIL.—Any Council
 14 may at any time prepare a fishery management plan
 15 with respect to any species referred to in section 301 (a).

16 (2) AT REQUEST OF SECRETARY.—The Secretary
 17 may request any Council to prepare a fishery manage-
 18 ment plan with respect to any species referred to in
 19 section 301 (a).

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REMARKS

No comparable Senate provision.

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MANAGEMENT REGULATIONS

[Sec. 303]

SEC. 203. (a) GENERAL.—As soon as practicable, each
 Council, or the Secretary, shall identify fisheries in need
 of conservation. The appropriate Council shall develop (1)
 a fishery management plan for each such fishery in the order
 needed; and (2) recommended management regulations as
 required for the implementation, and maintenance of each
 such plan. Such Council shall initiate action on the formula-
 tion of such management plans and recommended regulations
 not later than 60 days after the first day on which all initial
 members of the Council have been appointed and taken office,
 and shall submit each such plan and recommended regula-
 tions to the Secretary as soon as practicable.

[Sec. 302]

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SEC. 202 . . .

(g) MISCELLANEOUS PROVISIONS.—(1) No Council
 shall have any authority to develop a fishery management

See next page for continuation of section 303 (a).

20 (3) APPLICATION OF PLANS.—Any fishery man-
 21 agement plan prepared pursuant to paragraph (1) or

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22 (2) shall be limited to species in the fisheries zone (and
 23 seaward of the zone in the case of anadromous species
 24 and Continental Shelf species) adjacent to the States

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1 represented on the Council. In any case in which the
 2 range of a species includes waters within the fisheries
 3 zone which are adjacent to States represented on more
 4 than one Council, the Secretary shall designate which
 5 Council shall prepare the fishery management plan.

[Sec. 303]

6 (b) SCOPE OF MANAGEMENT PLAN.—

7 (1) IN GENERAL.—Any fishery management plan
 8 which is prepared by any Council shall—

9 (A) contain the conservation and other mea-
 10 sures which the Council deems appropriate with
 11 respect to the management of the species or the
 12 fishery concerned; and

13 (B) specify such conditions and limitations
 14 governing fishing by any vessel documented under
 15 the laws of the United States or registered under
 16 the laws of any State, or by any other vessel, which
 17 the Council believes should be implemented to carry
 18 out such measures within the territorial sea of the

plan, or to recommend regulations, with respect to fisheries
 which are principally located in waters within the boundaries
 of a single State.

(2) Whenever a fishery extends beyond the geographic

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area of authority of a single Council, the appropriate Coun-
 cils shall coordinate or combine their efforts as necessary.

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[Sec. 303]

SEC. 203 (a) . . .

Such a plan shall include—

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(A) a description of the fishery, including, but not
 necessarily limited to, the number of vessels involved;
 the type of gear used; the species of fish involved and
 their location; the costs likely to be incurred in manage-
 ment; the potential revenue from the fishery; the recrea-
 tional interests in the fishery; and the nature and extent
 of foreign fishing and Indian treaty fishing rights, if any;

(B) a summary of the best scientific information
 available with respect to the present and probable future
 condition of, and the maximum sustainable yield from,
 the fishery;

19	HOUSE	United States, the fisheries zone, and, in the case of any autonomous species or Continental Shelf species, in waters seaward of such zone.	SENATE	REMARKS
20			(C) an assessment of (i) the capacity and desire of vessels of the United States to harvest the optimum yield from the fishery, and (ii) the surplus in the fishery which can be made available for foreign fishing without risk of overfishing; and	
21				
22				
23				
24				
25				

No directly comparable Senate provision.

House bill speaks in terms of management plan. Senate bill—management regulations.

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11 (A) designate zones where, and designate peri-
 12 ods when, fishing shall be limited, or shall not be
 13 permitted, or shall be permitted only by specified
 14 vessels or with specified gear;

15 (B) establish a system under which access to
 16 the fishery shall be limited in order to achieve
 17 optimum sustainable yield on a basis which may
 18 recognize, among other considerations, present
 19 participation in the fishery or fisheries, historical
 20 fishing practices and dependence on the fishery,
 21 value of existing investments in vessels and gear,
 22 capability of existing vessels to engage in other
 23 fisheries, history of compliance with fisheries regu-
 24 lations imposed pursuant to this Act, and the cul-

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1 tural and social framework in which the fishery is
 2 conducted;

3 (C) establish limitations on the catch of fish
 4 based on area, species, size, number, weight, sex,
 5 incidental catch, total biomass, and other factors
 6 necessary to carry out the policy and purposes of
 7 this Act, including the size or number or nature of
 8 the vessels or gear used in such catch;

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(1) designate zones where, and designate periods
 when, fishing shall be limited to, or shall not be per-
 mitted, or shall be permitted only as to specified vessels
 or gear;

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(2) establish a system which shall, directly or in-
 directly, limit access to a fishery on a basis which shall
 recognize, among other considerations, present partici-
 pation in the fishery, historical fishery practices and
 dependence on the fishery, the value of existing invest-
 ments in vessels and gear, the value of the fishing privi-
 lege, capability of existing vessels to direct their efforts
 to other fisheries, State limited access systems, history
 of compliance with applicable fishing regulations, the
 optimum yield of the fishery, and the cultural and social
 framework in which the fishery is conducted;

(3) establish limitations on the catch of fish in any
 fishery, based on area, species, size, number, weight,
 sex, incidental catch, total biomass or quotas, and other
 factors which are necessary for the conservation of such
 fish;

(D) prohibit, limit, condition, or require the use of specified types of fishing gear, vessels, or equipment for such vessels, including devices which may be required solely or partially to facilitate enforcement of the provisions of this Act;

(E) specify those licenses, permits, or fees (the amount of which may vary between domestic and foreign fishermen, between different categories of domestic fishermen, or between different categories of foreign fishermen) which should be required as a condition to engaging in any fishery or other activity regulated pursuant to this Act;

(F) require the submission to the Secretary of pertinent statistics, including but not limited to information regarding type of fishing gear used, catch by species in numbers of fish or weight thereof,

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areas in which fishing was engaged in, time of fishing, and number of hauls; and

(G) prescribe such other limitations or requirements as the Council deems necessary and appropriate to carry out the purposes of this Act.

(4) prohibit, limit, condition, or require the use of specified types of fishing gear, vessels, or equipment for such vessels including devices which may be required solely or partially to facilitate enforcement of this title or the regulations issued hereunder;

(5) require a license or permit to be issued by the Secretary as a condition to engaging in any fishery, upon such terms as may be prescribed, including the

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payment of fees appropriate to the value of the fishing license or permit;

(6) require catch and other appropriate statistics from fishermen and processors; and

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(7) mandate or encourage such other management and conservation measures as are necessary or appropriate to carry out the purposes of this Act.

22 SEC. 303. REVIEW, ADOPTION, OR OTHER ACTION BY SECRETARY REGARDING FISHERY MANAGEMENT

23 PLANS.

24

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[Sec. 303]

(a) ACTION BY SECRETARY AFTER RECEIPT OF

2 PLAN.—Upon receipt of any fishery management plan

3 prepared by any Council, the Secretary, within 60 days

4 after the date on which the plan is received, shall—

[Sec. 304]

5 (1) review the plan as provided for in subsection

6 (c);

7 (2) notify in writing the Council of his approval,

8 partial approval, or disapproval of the plan; and

9 (3) in the case of partial approval or disapproval

10 of the plan, include with such notification his objections

11 thereto and the reasons therefor, and request the Council

12 to amend the plan within 45 days.

[Sec. 305]

13 (1) AMENDED PLAN.—Within 30 days after receiving

14 an amended fishery management plan requested by him pur-

15 suant to Subsection (a) (3), the Secretary shall notify in

16 writing the Council of his approval or disapproval and, in

17 the case of disapproval, his reasons therefor.

[Sec. 305]

SEC. 203. . . .

(c) REVIEW.—(1) The Secretary shall review each

management regulation which is recommended and submitted

to him by Council to determine whether it is consistent

with (A) the national standards and (B) the provisions and

requirements of this Act and any other applicable law, before

he issues a notice of proposal rulemaking regarding manage-

ment regulations for the applicable fishery. If such recom-

mended regulations are determined to be so consistent, the

Secretary shall adopt them and shall publish, immediately

thereafter, a notice of proposed rulemaking with regard

thereto. If the recommended regulations are determined not

to be so consistent, the Secretary shall notify the applicable

Council of such inconsistency and shall indicate the changes

that are necessary to make such recommended regulations

so consistent. Such Council may change the recommended

regulations to make them consistent: *Provided*, That if the

Council does not make the necessary changes within 60 days

after it receives notice from the Secretary, the Secretary

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shall make the necessary changes and shall, thereupon, issue

the notice of proposed rulemaking.

HOUSE

[Sec. 304]

18 (c) REVIEW OF PLANS.—The Secretary shall review
19 any fishery management plan submitted to him by any Com-
20 mittee. In carrying out such review, the Secretary shall—

- 21 (1) consider existing and projected population
22 levels of the fish involved;
23 (2) evaluate the need for, and the extent to which,
24 the plan will contribute to the conservation and man-
25 agement of such fish;

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1 (3) consider existing fishery management programs,
2 statistics, and data relating to such fish;

3 (4) if the plan will apply to foreign fishing vessels
4 beyond the fisheries zone, consult with the Secretary of
5 State;

6 (5) examine and evaluate the management proc-
7 edures proposed in the plan in order to determine if the
8 regulation of the fishery concerned in the fisheries zone
9 will be consistent on an interstate basis and consistent
10 with the management procedures which are in effect in
11 the territorial sea of the United States;

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[Sec. 304]

Sec. 203 (c) ...

(4) If any recommended management regulations
would apply to foreign fishing, the Secretary shall consult
with the Secretary of State.

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[Sec. 302]

Sec. 202 (c) ...

(3) To the extent practicable and consistent with the
national standards, the Councils shall incorporate, in its
management plans and recommended regulations, the
relevant fishery management measures of the coastal State
or States nearest the fishery involved.

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[Sec. 304]

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Sec. 203 (c) . . .

12 (6) if the plan or proposed regulations involve
 13 methods and procedures for enforcement at sea, consult
 14 with the Secretary of the department in which the
 15 Coast Guard is operating;

16 (7) consult with other Federal agencies, the com-
 17 mercial and recreational fishing industries, and, to the
 18 extent practicable, any other person having an interest
 19 in the conservation of the fish involved and in the en-
 20 hancement of the marine fisheries of the United States;

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[Sec. 304]

Extract from section 303 (c).

(c) REVIEW.—(1) The Secretary shall review each
 management regulation which is recommended and submitted
 to him by Council to determine whether it is consistent
 with (A) the national standards and (B) the provisions and
 requirements of this Act and any other applicable law.

24 (9) consider such other relevant factors as he deems

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1 necessary and appropriate to carry out the purposes of
 2 this Act.

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[Sec. 304]

Sec. 203. (c) . . .

(2) The Secretary shall have no authority to promulgate
 management regulations establishing a limited access system
 under subsection (b) (1) of this section unless such regula-

No directly comparable Senate provision.

No directly comparable Senate provision.

No comparable House provision; however, regulations must imple-
ment plan. Limited access, if any, must be authorized by the manage-
ment plan.

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tions have been approved by a majority of the membership of the Council involved.

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Extract from section 303(c)(1).

... *Provided*, That if the Council does not make the necessary changes within 60 days after it receives notice from the Secretary, the Secretary shall make the necessary changes and shall, thereupon, issue the notice of proposed rulemaking.

[Sec. 304(a)(2)] P. 37

Sec. 203 . . .

(4) OVERLAP.—The Secretary shall from time to time review the actions of the Councils to determine whether the Councils are acting in timely fashion. If the Secretary determines that a Council has failed to recommend management regulations for any fishery within a reasonable time, he shall prepare management regulations and submit them to such Council. Such Council may make changes in such regulations consistent with the national standards: *Provided*, That if such Council does not make such changes within 45 days after it receives such a submission from the Secretary, the

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[Sec. 304]

(d) PREPARATION OF PLANS BY SECRETARY.—If any Council which is requested by the Secretary to prepare a fishery management plan fails to do so within such reasonable time as shall be specified by the Secretary, or if the Secretary disapproves an amended plan under subsection (b) and he determines that such a plan is needed, then the Secretary shall prepare a fishery management plan for the fishery concerned. The fishery management plan requirements set forth in section 304 (b) apply with respect to any plan prepared by the Secretary.

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[SECS. 204(b)(10) ; 304(d)]

13 SEC. 306. LICENSE FEES.

14 (a) DEFINITION.—As used in this section, the term
 15 "license fee" means any fee which is imposed on any person
 16 under any fishery management plan implemented under this
 17 Act for the privilege of fishing.

18 (b) COLLECTION BY SECRETARY.—All license fees im-
 19 posed under any fishery management plan implemented
 20 under this Act shall be collected by the Secretary.

[SECS. 204(b)(10) ; 304(d)]

21 (c) CREDIT OF LICENSE FEES TO SEPARATE TREAS-

22 URY ACCOUNT.—

23 (1) ESTABLISHMENT OF ACCOUNT.—There is es-
 24 tablished in the Treasury of the United States a sepa-
 25 rate account into which all license fees collected by the

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1 Secretary shall be credited: *Provided*, That, notwith-
 2 standing any other provision of this Act, no funds shall
 3 be available from said account except as provided in
 4 appropriation Acts.

[SECS. 204(b)(10) ; 304(d)]

5 (2) FEES COLLECTED FROM FOREIGN FISHER-
 6 MEN.—Ten percent of all of the license fees collected
 7 by the Secretary pursuant to any fisheries management
 8 plan from foreign fishermen shall be credited to the ac-

regulations shall stand, and the Secretary shall issue a notice
 of proposed rulemaking with regard to such regulation.

[Sec. 201]

SEC. 102. (e) . . .

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(2) The Secretary shall establish a schedule of reason-
 able fees which shall be paid to the Secretary by any for-
 eign-flag fishing or fishing-support vessel authorized to fish
 pursuant to subsection (a) of this section. In determining
 the level of such fees, the Secretary may take into account the
 cost of management, research, administration, enforcement,
 the value of the fishing privilege, and other relevant factors.
 The fees charged may vary for different categories of fisher-
 men, to the extent deemed reasonable and appropriate.

No comparable Senate provision.

See also section 201(d)(1)(C), House bill, re fees charged pur-
 suant to foreign fishing permits, page 23 analysis.

See also section 304(b)(3)(E), House bill, re fees to be set forth in
 management plan, page 66 analysis.

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count established in paragraph (1) of this subsection and shall remain available without fiscal year limitation to carry out the purposes of subsection (d).

(3) OTHER FEES.—All license fees collected by the Secretary pursuant to any fishery management plan (other than the license fees referred to in paragraph (2) of this subsection) shall be credited to the account established in paragraph (1) of this subsection and shall remain available to carry out the purposes of subsection (e).

【Secs. 204(b)(10); 304(d)】

(d) REIMBURSEMENT OF CERTAIN FOREIGN FEES IMPOSED ON UNITED STATES FISHERMEN.—

(1) FEES ELIGIBLE FOR REIMBURSEMENT.—The Secretary, under such regulations as he shall prescribe, shall reimburse any owner or operator of a United States fishing vessel for all or part of any license or permit fee which is imposed on such owner or operator by

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any foreign nation for the privilege of fishing in waters under the jurisdiction of that nation if—

(A) the United States recognizes the jurisdiction of that nation over fisheries conservation and management in such waters; and

(B) United States vessels have fished or carried out fishing-support activities in such waters.

No comparable Senate provision.

(2) LIMITATION ON REIMBURSEMENT.—The Secretary shall reimburse any owner or operator of a United States fishing vessel under paragraph (1) of this subsection for the amount by which the license or permit fee imposed by the foreign nation exceeds the average license fee imposed under all fishery management plans implemented under this Act. Such average license fee shall be computed on the basis of all such license fees in effect at the time such foreign fee was imposed.

(3) REIMBURSEMENT FUNDING.—Reimbursement by the Secretary under paragraph (1) of this subsection shall be made first out of the fees credited pursuant to subsection (c) (2), and thereafter out of funds which are hereby authorized to be appropriated to carry out the purposes of this subsection.

【Sec. 304(c)】

(c) FISHERY RESEARCH AND DEVELOPMENT.—All license fees collected under any fishery management plan and credited pursuant to subsection (c) (3) shall be used by the

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Secretary to carry out stock assessment and such other research and development which the Secretary deems appropriate with respect to the fishery resources within the geographical area of responsibility of the Council concerned.

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SEC. 203 . . .

(i) FISHERIES RESEARCH.—The Secretary shall initiate and maintain a program of fisheries research designed to acquire knowledge and information, including statistics, on fishery management and conservation, including, but not limited to, biological research concerning interdependence of species, the impact of pollution, the impact of wetland and

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estuarine degradation, and other factors bearing upon the abundance and availability of fish.

[Sec. 305]

SEC. 203:

(d) PROPOSED RULEMAKING.—The Secretary shall publish, in the Federal Register, any management regulations which he proposes to promulgate pursuant to this Act. Each such notice (1) shall request comment thereon; (2) shall designate the fishery or fisheries to which they apply; and (3) shall summarize the recommendations of the applicable Council or Councils, including, where appropriate, an explanation of how the proposed regulations differ from those so recommended and the reasons therefor.

[Sec. 305]

5 SEC. 307. IMPLEMENTATION OF FISHERY MANAGEMENT

6 PLANS.

7 (a) IN GENERAL.—After the Secretary has approved
8 any fishery management plan prepared by any Council or
9 prepared by him, the Secretary shall, as soon as practicable
10 thereafter publish in the Federal Register the plan and all
11 regulations which he proposes to promulgate in order to
12 implement the plan.

Interested persons shall be afforded a
13 period of not less than 45 days after such publication within
14 which to submit written data, views, or comments on the
15 proposed regulations. Except as provided in subsection (b),
16 the Secretary may, after the expiration of such period and
17 after consideration of all relevant matters presented, promul-
18 gate the regulations with such modifications, if any, as he
19 deems appropriate.

[Sec. 305]

(b) OBJECTIONS TO PROPOSED REGULATIONS.—On

20 or before the last day of a period fixed for the submission of
21 written data, views, or comments under subsection (a), any
22 citizen (which for purposes of this section means any indi-
23 vidual, corporation, partnership, or other legal entity domi-
24 ciled in any State) who, or any State which, may be

1 adversely affected by the plan or the proposed regulations
 2 may file with the Secretary written objections to specific
 3 provisions of the plan or the proposed regulations, stating the
 4 grounds therefor, and may request a public hearing on such
 5 objections. If the Secretary determines that the citizen filing
 6 objections may be adversely affected and such citizen has
 7 requested a hearing, or if a State requests a hearing, the
 8 Secretary shall not promulgate the regulations except as
 9 provided for by subsection (c).

[Sec. 303.]

10 (c) HEARINGS AFTER OBJECTIONS.—As soon as prac-
 11 ticable after the period of filing objections has expired, if
 12 the Secretary determines that any citizen of the United States
 13 filing objections may be adversely affected and such citizen
 14 has requested a hearing, or if a State requests a hearing,
 15 the Secretary shall publish in the Federal Register a notice
 16 specifying the time and place at which a public hearing shall
 17 be held, the provisions of the proposed regulations to which
 18 such objections have been filed, and such other provisions
 19 as he may designate for consideration. The Secretary there-
 20 after shall hold a public hearing in accordance with section
 21 553 of title 5, United States Code, for the purpose of receiv-
 22 ing information relevant to the matters identified in the
 23 notice of hearing. If two or more citizens of the United States

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24 or States request hearings within the prescribed period and 25 the Secretary deems such hearing appropriate, the Secretary	P. 53	
1 may consolidate such hearings in the interest of time and 2 economy. At the hearing any interested citizen or State may 3 be heard. As soon as practicable after the completion of the 4 hearing, the Secretary shall act upon such objections, make 5 his determinations public (including a statement of his 6 reasons therefor), and promulgate the regulations with such 7 modifications, if any, as he deems appropriate.	【Sec. 305】 P. 35 SEC. 203 . . .	Sections 203(c) (1), 203(d) and 203(e) must be read together to determine the respective powers of Secretary and Councils over Management Regulations.
this title and section 553 of title 5, United States Code, with- out regard to subsection (a) thereof, to govern fishing by vessels of the United States and foreign fishing (1) with- in the fishery conservation zone (and vessels of the United States fishing for coastal species beyond such zone), (2) for anadromous species, and (3) Continental Shelf fishery re- sources. In addition, such regulations shall pertain to, but need not be limited to, the operation of the Councils, the set- ting of fees, procedures for obtaining data and statistics relat-	P. 36	

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ing to fishing, and other matters relating to the purposes of this Act. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments, with any coastal State, and with any foreign nation, through the Secretary of State, and for consideration of the views of any interested member of the general public.

The Secretary is further authorized, consistent with the purposes and provisions of this title, to amend or rescind any such regulations.

[Sec. 305] P. 53

(d) REVISION OF REGULATIONS.—The Secretary may from time to time revise any regulation promulgated pursuant to this section in accordance with the procedures prescribed in subsections (a) through (c).

[Sec. 305(e)]

(e) EMERGENCY REGULATIONS.—Notwithstanding subsections (a), (b), and (c), the Secretary may waive, if the Council concerned consents, by the affirmative vote of not less than two-thirds of the membership of the Council, to such waiver, the requirements for notice and public hearing set forth in such subsections with respect to any regulation implementing any fishery management plan if he finds (and incorporates the finding and a brief statement of the reasons therefor in the publication of the regulation) that, due to an emergency situation arising with respect to the fishery concerned, notice and hearing thereon are impracticable, unnecessary, or contrary to the public interest. Written objec-

[Sec. 305(e)] P. 36

SEC. 203...

(f) EMERGENCY ACTION.—If the Secretary determines that an emergency situation exists requiring immediate action in the national interest to protect any fishery resources, he shall prepare and promulgate emergency management regulations as soon as practicable. Such regulations shall be issued in accordance with the provisions of section 553 of title 5, United States Code, without regard to subsection (a) thereof.

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24 tions to such procedure may be submitted within 30 days after
 25 the effective date of any such emergency regulation. If any

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1 such written objection is so received, the Secretary shall, not
 2 later than 40 days after such effective date, initiate the pro-
 3 cedures set forth in subsection (a), (b), and (c). Any
 4 emergency regulation promulgated pursuant to this subsec-
 5 tion shall remain in effect for one year after the date on which
 6 the Secretary publishes notice of proposed rulemaking
 7 required by subsection (a), unless the Secretary terminates
 8 such regulation by notice in the Federal Register at any
 9 earlier date.

【Sec. 305】

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SEC. 203 . . .

(g) ACTION BY GENERAL PUBLIC:—Any coastal

State, or any interested member of the general public, may
 nominate a fishery as a fishery in need of regulation, by sub-
 mitting a written statement to the Secretary identifying such
 fishery and describing the reasons why it should be managed.

The Secretary shall promptly forward each such nomination
 to the appropriate Council for action.

No comparable House provision, except in context of public hear-
 ings which the Councils may hold.

SENATE

No comparable Senate provision.

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10 SEC. 306. TEMPORARY EMERGENCY FISHERY MANAGEMENT PLANS PREPARED AND IMPLEMENTED

11 BY THE SECRETARY WITH RESPECT TO CERTAIN FISHERIES.

12 (a) IN GENERAL.—Before the close of the 90-day period beginning on the date of the enactment of this Act, and

13 without regard to sections 304 through 307 except as provided in subsection (d) of this section, the Secretary, on his

14 own initiative or upon the request of any State, shall with respect to any coastal species or Continental Shelf species

15 which he believes to be, as of the date of the enactment of

16 this Act, (1) depleted, (2) in imminent danger of becoming depleted, or (3) under intensive use but unregulated

17 because of the absence of management authority—

18 (A) prepare, after consultation with appropriate

19 States and fishing industry representatives, a management plan, which shall apply within those waters which

20 comprise the contiguous fisheries zone established by the

21 first section of the Act of October 14, 1966, for the

22 fishery; and

23 (B) promulgate such regulations as may be necessary and appropriate to implement such plan.

24

25

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[Sec. 306]

7 (b) *INTERIM REPORT*.—Before the close of the 45-day
8 period beginning on the date of the enactment of this
9 Act, the Secretary shall submit to the Congress a report
10 which sets forth those fisheries which he will take action on
11 pursuant to subsection (a).

[Sec. 306]

12 (c) *PLAN REQUIREMENTS*.—The Secretary, in pre-
13 paring any plan required by subsection (a), shall include
14 such requirements set forth in section 304 (b) (?) as he
15 deems to be necessary and appropriate with respect to the
16 fishery concerned, but may not, pursuant to such plan, im-
17 pose limited entry or license fees on vessels documented
18 under the laws of the United States or otherwise registered
19 under the laws of any State in any area of the waters com-
20 prising such contiguous fisheries zone.

[Sec. 306]

21 (d) *TREATMENT OF REGULATIONS*.—Any regulation
22 which is promulgated by the Secretary to implement any
23 fishery management plan prepared pursuant to this section
24 shall be treated as an emergency regulation promulgated
25 under section 307 (c) ; except that any such regulation shall

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1 remain in effect for 180 days after the date on which the
2 regulation is promulgated unless the Secretary terminates
3 such regulation at an earlier date.

【Not Incorporated into Public Law 94-265】

FISHERY MANAGEMENT REVIEW BOARD

SFC. 204. (a) ESTABLISHMENT.—There is established an independent instrumentality to be known as the Fishery Management Review Board. The Board shall have exclusive and original jurisdiction to hear the appeals described in subsection (c) of this section.

(b) MEMBERSHIP.—(1) The Board shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. Of such members at least three shall be individuals who shall be appointed by the President from a list of qualified individuals submitted to the President by the National Governor's Conference, such list to consist of not less than three such individuals for each vacancy. Members of the Board shall not engage in any other business, vocation, or profession during their term of office. As used in this paragraph, a "qualified" individual is one who is knowledgeable and capable of making sound judgments with respect to appeals before the Board.

(2) The members of the Board shall be appointed for a term of 3 years, except that (A) the terms of office of the member first taking office shall expire as designated by the President at the time of nomination; and (B) any individual appointed to fill a vacancy occurring prior to the expiration

No comparable House provision.

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of the term for which his predecessor was appointed shall be appointed for the remainder of such term and in the same manner in which such predecessor was appointed. Successors to the members of the Board first taking office shall be appointed in the same manner as the original members. Each member of the Board shall be eligible for reappointment.

(3) The members of the Board shall select one of their number to serve as Chairman.

(4) The Board is authorized to appoint an executive secretary and such administrative law judges and other employees as are necessary for the proper performance of its duties.

(c) APPEALS TO THE BOARD.—(1) Any person who is adversely affected or aggrieved by, or who suffers legal wrong through, (A) any final management regulation promulgated by the Secretary pursuant to this title, or (B) a decision by the Secretary to issue, transfer, revoke, suspend, modify or renew a license or permit, may obtain review of such action by the Board if he files a request therefor with the Board not later than 60 days after the date of publication of such final regulation or decision.

(2) Any Council who recommended management regulations were determined by the Secretary to be not consistent with the national standards may obtain review of the Secretary's action by the Board if it files a request therefor with

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the Board not later than 60 days after the date of publication of any final management regulation involved.

(3) In any action under this section, the Secretary or any affected Council, if not a party, may intervene as a matter of right.

(4) Review proceedings under this section shall be in accordance with the provisions of section 554 of title 5, United States Code. To the extent possible, such proceedings shall be held in the locality closest to the fishery involved.

If the Board finds that justice so requires, it may issue an order (A) postponing the effective date of an action of the Secretary or (B) preserving the status or rights of any person, pending the outcome of such review proceedings.

(d) REVIEW STANDARD.—(1) In any review requested by a Council relating to any management regulation, the Board shall uphold the action of the Secretary unless it finds that his action—

(A) was not consistent (i) with the national fishery standards or (ii) with the provisions and requirements of this Act or any other applicable law;

(B) was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(C) was contrary to constitutional right, privilege, power or immunity;

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(D) was clearly not supported by the facts and record available to the Secretary; or

(E) did not observe the procedure required by this Act or other law.

If the Board does not uphold the action of the Secretary, it shall enter a final decision declaring such action invalid together with the reasons therefor; remanding the matter to the Secretary; and directing the Secretary to take, after consultation with the affected Council, appropriate action.

(2) In an appeal relating to any other matter, the scope of review shall be as set forth in section 706 of title 5, United States Code.

(e) POWERS.—(1) The Board or any member thereof may, for the purpose of carrying out the provisions of this section, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or other order the attendance and testimony of such witnesses and the production of such evidence as the Board or member deems advisable. Subpoenas may be issued under the signature of the Chairman of the Board, or that of any duly designated member of the Board, and may be served by any person designated for such purpose by such Chairman. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Such attend-

ance of witnesses and production may be required from any place in the United States to any place designated for such hearing.

(2) In case of refusal to obey a subpoena or other order, issued under paragraph (1) of this subsection, by any person who resides, is found, or transacts business within any judicial district of the United States, the district court of the United States for any such district shall have jurisdiction and shall, upon the request of the Chairman of the Board, issue to such person an order to appear and produce evidence. Any failure to obey such an order shall be punishable by such court as a contempt of court.

(3) The Administrator of General Services shall furnish the Board with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(f) COMPENSATION.—Members of the Board shall be compensated at the rate provided for level V of the Executive Schedule (5 U.S.C. 5316), and shall be reimbursed for travel expenses, including per diem in lieu of subsistence.

(g) JUDICIAL REVIEW.—Any person who is adversely affected or aggrieved by, or who suffers legal wrong through, a decision of the Board may, not later than 60 days after the date of any such decision, seek judicial review of such

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decision in the United States Court of Appeals for the circuit nearest to the fishery involved.

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4 SEC. 305. STATE JURISDICTION.

[Sec. 305]

(a) IN GENERAL.—Except as provided in subsection (b), nothing in this Act shall be construed as extending or diminishing the jurisdiction of any State seaward of the coastline of the United States.

[Sec. 306]

(b) ASSERTION OF FEDERAL JURISDICTION IN CERTAIN INSTANCES.—

(1) FINDINGS.—The Congress finds that anadromous species, certain coastal species, and certain Continental Shelf species move, during their life cycles, within waters over which more than one State has jurisdiction, and move from such waters to waters that are not within the jurisdiction of any State. The Congress further finds that, although the purpose of this Act is not to affect State jurisdiction over fish principally within waters under State jurisdiction, there may be instances where Federal regulation within such waters of any anadromous species, coastal species, or Continental Shelf

RELATIONSHIP TO STATE LAWS

[Sec. 306]

Nothing in this Act shall be construed to extend the jurisdiction of any State over any natural resources beneath and in the waters beyond its seaward boundaries, or to diminish the jurisdiction of any State over any natural resource beneath and in the waters within its boundaries.

INTERSTATE COOPERATION AND UNIFORM LAWS

[Not Incorporated into Public Law 94-265]

SEC. 206. The Secretary shall encourage cooperative action by the States and Councils for the management and conservation of coastal and anadromous species of fish and Continental Shelf fishery resources, and shall encourage, insofar as practicable, the enactment of improved and uniform State laws relating to the management and conservation of such fish.

See section 104, page 18 analysis, section 302(c)(2), page 45 analysis, and section 305(c)(5), page 69 analysis for related House provisions.

See section 302(c)(1), page 69 analysis and section 201(a)(3)—page 65 analysis for related Senate provisions.

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22 species may be necessary in order to insure the effective-
 23 ness of a management plan implemented under this Act
 24 for a fishery.

25 (2) FINDINGS AND ACTION BY SECRETARY.—If

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1 the Secretary finds, after notice and opportunity for
 2 agency hearing, that—

3 (A) any fishery management plan implemented
 4 pursuant to this Act applies to any anadromous spe-
 5 cies, coastal species, or any Continental Shelf species
 6 which are to any extent, or are at any time, under
 7 the jurisdiction of any State; and

8 (B) such State has taken any action, or omit-
 9 ted to take any action, the result of which will sub-
 10 stantially and adversely affect the carrying out of
 11 the management plan which applies to a fishery,
 12 the Secretary shall promptly declare that such fishery
 13 within waters, other than internal waters, under juris-
 14 diction of the State shall be subject to regulation by him
 15 pursuant to the management plan, and the Secretary,
 16 as soon as practicable thereafter, shall assume responsi-
 17 bility for such regulation.

18 [Sec. 306]

19 (c) RESUMPTION OF STATE REGULATION.—If the
 19 Secretary, pursuant to subsection (b), assumes responsibility

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20 for the regulation of any fishery within waters under the
 21 jurisdiction of any State, the State may at any time there-
 22 after apply to the Secretary for reinstatement of State regu-
 23 lation of such fishery. If the Secretary finds, after notice and
 24 opportunity for agency hearing, that the reasons for which
 25 regulation of the fishery by him was assumed no longer pre-

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1 vail, the Secretary shall promptly declare such fishery to be
 2 subject to regulation by the State within that State's waters
 3 pursuant to the fishery management plan.

【Sec. 307】

4 SEC. 30. PROHIBITED ACTS.

5 It is unlawful for any person—

6 (1) to violate any provision of this Act or any
 7 regulation promulgated under this Act to carry out any
 8 fishery management plan implemented pursuant to this
 9 Act;

10 (2) if fishing pursuant to a permit issued under sec-
 11 tion 201 (g), to violate any condition or restriction ac-
 12 cepted by the foreign nation concerned pursuant to that
 13 section in regard to the permit;

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TITLE III—MISCELLANEOUS PROVISIONS

PROHIBITED ACTS AND PENALTIES

【Sec. 307】
 Sec. 301. (a) PROHIBITED ACTS.—(1) It is unlawful

for any person to—

(A) violate any provision of this Act, or any regu-
 lation issued hereunder, regarding fishing within the
 fishery conservation zone or with respect to anadromous
 species or Continental Shelf fishery resources;

No comparable Senate provision—not relevant to Senate approach.

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[Sec. 307]

Sec. 301. (a) (1) . . .

14 (3) to refuse to permit any authorized representa-
 15 tive of the Secretary, or of the Secretary of the Depart-
 16 ment in which the Coast Guard is operating, to board
 17 any fishing vessel under the control of such person if the
 18 purpose of the requested boarding is to carry out any
 19 inspection relating to the enforcement of this Act, any
 20 regulation referred to in paragraph (1), or any condi-
 21 tion or restriction referred to in paragraph (2) unless
 22 such refusal is pursuant to a right protected by interna-
 23 tional law;

(D) refuse to permit a duly authorized representa-
 tive of the Secretary, or of the Secretary of the de-
 partment in which the Coast Guard is operating, to
 board a fishing vessel or fishing-support vessel subject to
 his control, if the purpose of such requested boarding
 is to inspect the catch, fishing gear, ship's log, or other
 records or materials aboard such vessel; or

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[Sec. 307]

Sec. 301. (a) (1) . . .

24 (4) to forcibly assault, resist, oppose, impede, in-
 25 tervene, or interfere with any authorized representative

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1 of the Secretary, or of the Secretary of the Department
 2 in which the Coast Guard is operating, who is engaged
 3 in any reasonable inspection of a kind referred to in
 4 paragraph (3); or

(E) fail to cooperate with a duly authorized rep-
 resentative of the Secretary, or of the Secretary of the
 department in which the Coast Guard is operating, en-
 gaged in a reasonable inspection pursuant to paragraph
 (D) of this subsection, or to resist any lawful arrest.

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[Sec. 307]

Sec. 301. (a) (1) . . .

5 (5) to ship, transport, purchase, offer for sale, im-
 6 port, export, or have in custody, possession, or control

(C) ship, transport, purchase, sell or offer for sale,
 import, export, possess, control, or maintain in his

Meaning of (3), lines 21-23 House bill, unclear.

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7 any fish taken in violation of this Act, any regulation 8 referred to in paragraph (1), or any condition or re- 9 striction referred to in paragraph (2).	custody any fish taken in violation of paragraphs (A) or (B) of this subsection, if such person knew or had reason to know that such taking was not lawful; 【Sec. 307】 P. 44 SEC. 301. (a) (1) . . .	No comparable House provision.
【Sec. 308】 10 SEC. 311. CIVIL PENALTIES.	(B) violate any provision of any international fish- ery agreement to which the United States is a party and which is negotiated or reviewed pursuant to this Act, to the extent that such agreement applies to or covers fishing within the fishery conservation zone; 【Sec. 307】 P. 44 SEC. 301. (a) . . .	No comparable House provision.
11 (a) ASSESSMENT OF PENALTY.—Any person who is 12 found by the Secretary, after notice and an opportunity for a 13 hearing in accordance with section 554 of title 5, United 14 States Code, to have committed an act prohibited by para- 15 graph (1), (2), or (3) of section 310 shall be liable to the 16 United States for a civil penalty. The amount of the civil	(2) For the purposes of this section, it shall be a rebuttable presumption that all fish found on board a vessel seized in connection with an act prohibited under this section were taken or retained in violation of this Act. P. 45	Senate bill does not contain civil penalties.

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17 penalty shall not exceed \$25,000 for each violation. Each
 18 day of a continuing violation shall constitute a separate of-
 19 fense. The amount of such civil penalty shall be assessed by
 20 the Secretary, or his designee, by written notice. In deter-
 21 mining the amount of such penalty, the Secretary shall take
 22 into account the nature, circumstances, extent, and gravity of
 23 the prohibited acts committed and, with respect to the vio-
 24 lator, the degree of culpability, any history of prior offenses,
 25 ability to pay, and such other matters as justice may require.

【Sec. 308】 P. 60

1 (b) HEAVEN OF CIVIL PENALTY.—Any person against
 2 whom a civil penalty is assessed under subsection (a) may
 3 obtain review thereof in the appropriate court of the United
 4 States by filing a notice of appeal in such court within 30
 5 days from the date of such order and by simultaneously
 6 sending a copy of such notice by certified mail to the Secre-
 7 tary. The Secretary shall promptly file in such court a cer-
 8 tified copy of the record upon which such violation was found
 9 or such penalty imposed, as provided in section 2112 of title
 10 28, United States Code. The findings of the Secretary shall
 11 be set aside if found to be unsupported by substantial evi-
 12 dence as provided by section 706(2) of title 5, United
 13 States Code.

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14 **[Sec. 308]** **HOUSE**
 15 (c) ACTION UPON FAILURE TO PAY ASSESSMENT.—

16 If any person fails to pay an assessment of a civil penalty
 17 after it has become a final and unappealable order, or after
 18 the appropriate court has entered final judgment in favor of
 19 the Secretary, the Secretary shall refer the matter to the
 20 Attorney General, who shall recover the amount assessed in
 21 any appropriate district court of the United States. In such
 22 action, the validity and appropriateness of the final order
 23 imposing the civil penalty shall not be subject to review.

23 **[Sec. 308]**
 24 (d) COMPROMISE OR OTHER ACTION BY SECRETARY.—

25 The Secretary may compromise, modify, or remit,
 with or without conditions, any civil penalty which is subject

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1 to imposition or which has been imposed under this section.

[Sec. 309] P. 45

SEC. 301.....

(b) CRIMINAL PENALTIES.—Any person who willfully

commits an act prohibited by subsection (a) of this section
 shall, upon conviction, be fined not more than \$100,000 or
 imprisoned for not more than 1 year, or both.

House bill limits criminal penalties to refusal to permit boarding
 and use of force.

[Sec. 309]

2 SEC. 312. CRIMINAL PENALTIES.

3 Any person who commits any act prohibited by para-
 4 graph (3) or (4) of section 310 shall be fined not more than
 5 \$50,000; except that if such person uses a deadly or danger-
 6 ous weapon in the commission of any such act, such person
 7 shall be fined not more than \$100,000, or imprisoned for not
 8 more than 10 years, or both.

HOUSE	SENATE	REMARKS
[Sec. 310] 9 SEC. 313. FORFEITURE.	SEC. 301....	Senate bill limits forfeiture to fish and gear.
10 (a) APPLICATION FOR FORFEITURE.—Any district 11 court of the United States shall have jurisdiction, upon ap- 12 plication by the Secretary or the Attorney General, to 13 order forfeited to the United States any fishing vessel, catch, 14 cargo, fishing gear, or the monetary value thereof as deter- 15 mined by the court, used, intended for use, or acquired in 16 the Commission by any person of any act prohibited by 17 section 310. In any such proceeding, such court may at any 18 time enter such restraining orders or prohibitions or take 19 such other actions as are in the interest of justice, including 20 the acceptance of satisfactory performance bonds in con- 21 nexion with any property subject to forfeiture.	(c) CIVIL FORFEITURE.—(1) Any district court of the United States shall have jurisdiction, upon application by the Secretary or the Attorney General, to order forfeited to the United States any fish or fishing gear, used, intended for use, or acquired by, activity in violation of any provision of subsection (a) of this section. In any such proceeding, such court may at any time enter such restraining orders or prohibitions or take such other actions as are in the interest of justice, including the acceptance of satisfactory perform- ance bonds in connection with any property subject to civil forfeiture.	
[Sec. 310]	P. 45	
22 (b) STRIKE.—If a judgment is entered under this sec- 23 tion for the United States, the Attorney General is author- 24 ized to seize all property or other interest declared forfeited 25 upon such terms and conditions as are in the interest of	SEC. 301 (c) ...	(2) If a judgment is entered for the United States under this subsection, the Attorney General is authorized to seize all property or other interest declared forfeited upon such terms and conditions as are in the interest of justice. All provisions of law relating to the disposition of forfeited property, the proceeds from the sale of such property, the remission or mitigation of forfeitures for violation of the
1 justice. All provisions of law with respect to violations of 2 the customs laws relating to the disposition of forfeited prop-	P. 62	

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customs laws, and the compromise of claims, shall apply to civil forfeitures incurred, or alleged to have been incurred, under this subsection, insofar as applicable and not inconsistent with the provisions of this section. Such duties as are imposed upon the collector of customs or any other person with respect to seizure, forfeiture, or disposition of property under the customs laws shall be performed with respect to property used, intended for use, or acquired by activity in violation of any provision of subsection (a) of this section by such officers or other persons as may be designated for that purpose by the Secretary.

ENFORCEMENT

[Sec. 311]

SEC. 302. (a) GENERAL.—The provisions of this Act shall be enforced, together with regulations issued hereunder, by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, or any State agency, in the performance of such duties.

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erty, the proceeds from the sale of such property, the remission or mitigation of forfeitures and the compromise of claims and the award of compensation to informants with respect to forfeitures, shall apply to forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section. Such duties as are imposed upon the collector of customs or any other person with respect to seizure, forfeiture, or disposition of property under the customs laws shall be performed with respect to property used, intended for use, or acquired in the commission of any act prohibited by section 310 by such officers or other persons as may be designated for that purpose by the Secretary.

SEC. 314. ENFORCEMENT.

[Sec. 311]

(a) IN GENERAL.—The provisions of this Act and any regulation promulgated under this Act to carry out any fishery management plan implemented under this Act shall be enforced by the Secretary, and the Secretary of the Department in which the Coast Guard is operating. In carrying out such enforcement, the Secretary and the Secretary of the Department in which the Coast Guard is operating may utilize by agreement, with or without reimbursement, the personnel, services, and facilities—

1 (1) of any other Federal agency; or
 2 (2) of any State agency, but only for purposes of
 3 enforcement with respect to (A) any vessel in the
 4 fisheries conservation and management zone, or (B) any
 5 vessel documented under the laws of the United States
 6 or otherwise registered under the laws of any State,
 7 wherever any such vessel may be found.

[Sec. 311]

8 (b) AUTHORITY.—Any individual authorized pursuant
 9 to subsection (a) to enforce the provisions of this Act, any
 10 regulation issued thereunder, and any condition or restriction
 11 applicable to any permit issued under section 201 may—

12 (1) with or without a warrant or other process,
 13 board and inspect any fishing vessel documented under
 14 the laws of the United States or otherwise registered
 15 under the laws of any State or any other fishing vessel
 16 subject to the jurisdiction of the United States, and its
 17 catch and gear, upon the waters of the fisheries conserva-
 18 tion and management zone or upon all high seas seaward
 19 of such zone;

20 (2) with or without a warrant or other process,

[Sec. 311] P. 46

SEC. 302. . . .

(b) POWERS.—Any person, duly authorized, pursuant
 to subsection (a) of this section, may—

(1) board and inspect any fishing vessel or fishing-
 support vessel which is within the fishery conservation

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zone, or which he has reason to believe is fishing for
 anadromous species or Continental Shelf fishery
 resources;

(2) arrest any person, with or without a warrant,
 if he has reasonable cause to believe that such person
 has committed an act prohibited by section 301 (a) of
 this title;

(3) execute any warrant or other process issued
 by an officer or court of competent jurisdiction; and

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(4) seize all fish and fishing gear found aboard any fishing vessel or fishing-support vessel which is engaged in any act prohibited by section 301 (a) of this title.

No comparable Senate provision.

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21 arrest any person committing in his presence or view
 22 a violation of section 310 (3) or (4) ;
 23 (5) execute any warrant or other process issued by
 24 any officer or court of competent jurisdiction ;
 25 (4) seize any fishing vessel and fishing gear used

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1 in, and any fishing vessel on which occurs, the violation
 2 of any provision of this Act, any regulation promulgated
 3 to carry out any management plan implemented pursuant to this Act, or any condition or restriction applicable to any permit issued under section 201; and
 4 (5) seize any fish, wherever found, taken in violation of any provision of this Act or any regulation or condition or restriction referred to in paragraph (4) of this subsection.

10 Any fishing vessel, fishing gear, or fish seized pursuant to paragraph (4) or (5) of this subsection may be disposed of pursuant to an order of a court of competent jurisdiction, or, if perishable, in such manner as may be prescribed by the Secretary by regulation.

14 [Sec. 311]
 15 (c) STATE OFFICERS.—Any officer of any State, if designated pursuant to subsection (a) to function as a Federal law enforcement agent shall not be considered to be a

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【Sec. 311(d)】 P. 47

Sec. 302 . . .

(c) COURTS.—The district courts of the United States shall have exclusive jurisdiction over all cases or controversies arising under this Act, except as provided in section 204 of this Act. Such courts may issue all warrants or other process, to the extent necessary or appropriate. In the case of Guam, actions may be brought and process may be issued by the District Court of Guam; in the case of the Virgin Islands, by the District Court of the Virgin Islands; and in the case of American Samoa, by the District Court for the District of Hawaii. The aforesaid courts shall have jurisdiction over all such case and controversies without regard to the amount in controversy or the citizenship of the parties.

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18 Federal employee of the United States for the purposes of
19 any laws administered by the Civil Service Commission.

【Sec. 311(d)】

20 (d) JURISDICTION OF COURTS.—The Federal district
21 courts shall have exclusive jurisdiction over all cases arising
22 under this Act, any regulation promulgated under the Act
23 to carry out any fishery management plan implemented un-
24 der this Act and any permit issued pursuant to section 201,
25 and may issue all warrants or other processes as may be nec-

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1 esary. In the case of Guam, actions arising under such reg-
2 ulations may be brought in the district court of Guam, and
3 in the case of the Virgin Islands such actions may be brought
4 in the district court of the Virgin Islands. In the case of
5 American Samoa, such actions may be brought in the Dis-
6 trict Court of the United States for the District of Hawaii
7 and such court shall have jurisdiction of such actions.

【Sec. 310(d)】

8 (c) PROCESS.—Notwithstanding the provisions of
9 section 2464 of title 28, United States Code, when a warrant
10 of arrest or other process in rem is issued in any cause under
11 this section, the marshal or other officer shall stay the execu-
12 tion of such process, or discharge any fish seized if the
13 process has been levied, on receiving from the respondent

14 or claimant of the fish a bond or other surety satisfactory to
 15 the court, conditioned to deliver the fish seized, if condemned,
 16 without impairment in value or, in the discretion of the
 17 court, to pay its equivalent value in money or otherwise
 18 to answer the decree of the court in such case. Such bond
 19 or other surety shall be returned to the court and judgment
 20 thereon against both the principal and sureties may be re-
 21 covered in the event of any breach of the conditions thereof
 22 as determined by the court. In the discretion of the court,
 23 and subject to the direction of the court, the fish may be
 24 sold for not less than its reasonable market value and the

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1 proceeds of such sale placed in the registry of the court pend-
 2 ing judgment in the case.

3 TITLE IV—AMENDMENTS TO OTHER

4 LAWS RELATING TO THE FISH-

5 ERIES AND MISCELLANEOUS

6 PROVISIONS

[Sec. 403]

7 SEC. 401. FISHERMEN'S PROTECTIVE ACT AMENDMENTS.

8 (a) SHUTOUT PROVISION.—Section 2 of the Fishermen's
 9 Protective Act of 1967 (68 Stat. 883; 22 U.S.C. 1972)

10 is amended to read as follows:

11 "Sec. 2. In any case where—

12 " (1) any vessel of the United States is seized by a

No comparable Senate provision.

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13 foreign country on the basis of rights or claims in terri-
 14 torial waters or the high seas which are not recognized
 15 by the United States; or

16 "(2) any vessel of the United States is seized by
 17 a foreign country while such vessel is engaged in fishing
 18 in any area of the high seas (and the rights or claims
 19 to fisheries conservation and management jurisdiction
 20 in such area by such country are recognized by the
 21 United States) for a specific stock of fish (including,
 22 but not limited to, tuna and any other highly migratory
 23 species of fish), and vessels of the United States have
 24 previously fished in such area for such stock,

25 and there is no dispute of material facts with respect to the

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1 location or activity of such vessel at the time of such seizure,
 2 the Secretary of State shall as soon as practicable take action
 3 to attend to the welfare of such vessel and its crew while it
 4 is held by such country to secure the release of such vessel
 5 and crew, and to immediately ascertain the amount of any
 6 fine, license fee, registration fee, or any other direct charge
 7 which may be reimbursable under section 3 (a) of this Act."

【Sec. 403】

8 (b) REIMBURSEMENT PROVISION.—

9 (1) Section 3 (a) of such Act of 1907 (22 U.S.C.
 10 1973 (a)) is amended by inserting immediately before

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11 the last sentence thereof the following new sentence:
 12 "For purposes of this section, the term 'other direct
 13 charge' means any levy, however characterized or com-
 14 puted (including, but not limited to, computation based
 15 on the value of a vessel or the value of fish or other
 16 property on board a vessel), which is imposed in addi-
 17 tion to any fine, license fee, or registration fee".
 18 (2) The amendment made by paragraph (1) of
 19 this subsection shall apply with respect to seizures of
 20 vessels of the United States occurring on or after De-
 21 cember 31, 1974.

【Sec. 402(b)】

22 SEC. 402. AMENDMENTS TO THE ACT OF MAY 20, 1964.

23 (a) AMENDMENTS.—The Act of May 20, 1964 (78
 24 Stat. 194-196; 16 U.S.C. 1081-1086) is amended—

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1 (1) by amending the first section to read as
 2 follows:

3 "That (a) it is unlawful for any vessel, except a vessel of
 4 the United States, or for any master or other person in
 5 charge of such a vessel, to engage in fishing—

6 " (1) within the territorial waters of the United
 7 States, its territories and possessions, and the Common-
 8 wealth of Puerto Rico;

【Sec. 402(b)】 P. 48

SEC. 303:

(b) The Act of May 20, 1964 (16 U.S.C. 1081-
 1086), as amended by the Act of July 26, 1968 (82 Stat.
 445), is repealed.

Senate bill repeals Bartlett Act.

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9 " (2) within the fisheries conservation and manage-
 10 ment zone established by title I of the Marine Fisheries
 11 Conservation Act of 1975 unless such fishing is au-
 12 thorized under a permit issued pursuant to section 201
 13 of such Act;

14 " (3) for any anadromous species beyond such
 15 fisheries conservation and management zone for which
 16 a fishery management plan has been implemented under
 17 title III of such Act of 1975 unless such fishing is
 18 authorized under a permit issued pursuant to section
 19 201 of such Act of 1975; and

20 " (4) for any Continental Shelf fishery resource,
 21 " (b) Notwithstanding any other provision of law, the
 22 Secretary of Commerce, with the concurrence of the Secre-
 23 tary of State, may permit a vessel, other than a vessel of the
 24 United States owned or operated by an international organi-

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1 zation of which the United States is a member, to engage in
 2 fishery research within the territorial waters of the United
 3 States or within the fisheries conservation and management
 4 zone established by title I of the Marine Fisheries Conserva-
 5 tion Act of 1975 or for Continental Shelf fisheries resources
 6 and to land its catch in a port of the United States in accord-
 7 ance with such conditions as the Secretary may prescribe

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8. whenever they determine such action is in the national interest.

9. and

10. (2) by amending section 5 (c) by striking out
 11. "the fisheries" and inserting in lieu thereof "fishing";

12. (3) EFFECTIVE DATE.—The amendment made by sub-

13. section (a) shall take effect July 1, 1976.

[Sec. 402(b)]

14. SEC. 402 ATLANTIC TUNAS CONVENTION ACT AMEND-

MENT

[Sec. 105(a)]

15. (a) AMENDMENT.—Section 2 (4) of the Atlantic Tunas

16. Convention Act of 1975 (Public Law 94-70) is amended by

17. striking out "the entire zone established by the United States

18. under the Act of October 14, 1966 (80 Stat. 308; 16 U.S.C.

19. 1301-1303)" and inserting in lieu thereof "the fisheries

20. conservation and management zone established by title I of

21. the Marine Fisheries Conservation Act of 1975";

22. (b) EFFECTIVE DATE.—The amendment made by sub-

23. section (a) shall take effect July 1, 1976.

24.

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[Sec. 405(b)]

1. SEC. 404 MARINE MAMMAL PROTECTION ACT AMEND-

MENT

[Sec. 404(a)]

2. (a) AMENDMENT.—Section 3 (1) (B) of the Marine

3. Mammal Protection Act of 1972 (86 Stat. 1029; 16 U.S.C.

4. 1502 (1) (B)) is amended by striking out "the fisheries

5. zone established pursuant to the Act of October 14, 1966

6.

No comparable Senate provision, but see Senate definition of "fisheries" (page 123, 124).

No comparable Senate provision.

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7 (80 Stat. 908; 16 U.S.C. 1691-1694)." and inserting in
 8 lieu thereof "the fisheries conservation and management zone
 9 established by title I of the Marine Fisheries Conservation
 10 Act of 1975."

[Sec. 404(b)]

11 (b) EFFECTIVE DATE.—The amendment made by
 12 subsection (a) shall take effect July 1, 1976.

[Sec. 405]

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

14 There are authorized to be appropriated such sums
 15 as may be necessary to carry out the purposes of this Act
 16 (other than section 306(d)(3)).

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[Sec. 405]

AUTHORIZATION FOR APPROPRIATIONS

SEC. 304. There are authorized to be appropriated for
 the purposes of this Act—

(1) to the Secretary such sums as are necessary, not
 to exceed \$22,000,000 for the fiscal year ending
 June 30, 1976; not to exceed \$5,300,000 for the transi-
 tional fiscal quarter ending September 30, 1976, and
 not to exceed \$22,000,000 for the fiscal year ending
 September 30, 1977; and

(2) to the Secretary of the department in which the
 Coast Guard is operating such sums as are necessary, not
 to exceed \$13,000,000 for the fiscal year ending June
 30, 1976; not to exceed \$3,250,000 for the transitional
 fiscal quarter ending September 30, 1976; and not to
 exceed \$13,000,000 for the fiscal year ending Septem-
 ber 30, 1977.

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【Not Incorporated into Public Law 94-265】

17 SEC. 606 SEVERABILITY.

18 The provisions of this Act shall be severable and if any
19 part of the Act is declared unconstitutional or the applica-

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bility thereof is held invalid, the constitutionality of the
remainder and the applicability thereof shall not be af-
fected thereby.

No comparable Senate provision.

CHAPTER III

SENATE DEBATES AND PASSAGE OF H.R. 200

STATEMENT OF SENATOR MARK O. HATFIELD ON H.R. 200, AS PASSED:
FEBRUARY 5, 1976

Mr. HATFIELD. Mr. President, to those of us who support the concept of the 200-mile limit contained in the Magnuson bill we approved last week, the action was long overdue. This has been an important issue in Oregon for the past decade.

One of our State's leading newspapers, the *Eugene Register Guard*, carried a three-part series on the legislation prior to our vote on the Senate floor. An able reporter, Larry Bacon, writes for the paper from the Oregon coastal town of Florence. He has first-hand experience with foreign fishing vessels, having visited a Russian vessel last summer. At that time, my office helped out the redtape associated with that visit.

Larry Bacon's articles, with their comments from numerous local Oregon people immediately involved in the fishing industry, merit the attention of all those interested in the issue.

I ask unanimous consent that this series of three articles by Larry Bacon in the *Eugene Register Guard* of January 12, 13, and 14, 1976, be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

TWO HUNDRED-MILE COASTAL LIMITS IS IN SIGHT

(By Larry Bacon)

There's a dream cherished by many U.S. fishermen.

It's about a sort of floating fence 200 miles from shore posted with signs saying, "No Foreign Fishermen Allowed."

Some think that it's a dream about to come true, because of the 200-mile fishing limit legislation now moving through Congress.

But fishermen with such dreams are due to have them shattered.

The 200-mile limit legislation, framed by Sen. Warren Magnuson, D-Wash., is not aimed at keeping out foreign fishermen.

It has two primary goals.

It would provide a means for the United States to have absolute control over foreign fishermen in a fisheries conservation zone to be established within 200 miles of the U.S. coastline.

The legislation also would establish a management program to protect all types of fish within the conservation zone from overfishing by both foreign and American fishermen.

The House of Representatives approved a 200-mile limit bill in October. The Senate began debate just before Christmas on its bill, and is expected to approve it soon after Congress reconvenes Jan. 19.

The bills are opposed by the Ford Administration, the State Department and the Senate Committee for Foreign Relations. Opponents are not against the concept of a 200-mile conservation zone, but they prefer that such a zone come about as a result of an international treaty.

The International Law of the Sea Conference, sponsored by the United Nations, appears to be headed toward eventual agreement on establishing 200-mile conservation zones for all coastal countries.

But Magnuson and other 200-mile limit advocates say it might be years before the Law of the Sea Conference reaches agreement. They say the United States can't afford to wait.

The United States would not be the first to unilaterally extend its fishing jurisdiction. About a dozen other countries have extended their jurisdiction to 200

miles. Several others have gone to lesser distances. However, the fishing jurisdiction of most countries—including the United States—is still only 12 miles.

Some speculate that President Ford might veto a 200-mile limit bill. Sen. Robert Packwood, R-Ore., one of the co-sponsors of the Senate bill, said that he thinks the Senate has the votes to override a presidential veto, but he doesn't know about the House.

There has been some indication that the President might sign a 200-mile limit bill if the effective date was after the Law of the Sea Conference reconvenes in March. The House bill has an effective date of July, the Senate version would take effect immediately. The Senate Armed Services Committee has recommended that the bill will not be effective until Jan. 1, 1977.

The effective date is one of the differences that would have to be worked out in a congressional joint conference committee if the Senate bill passes.

There are no major differences in the two bills. Both establish a provisional 200-mile fisheries conservation zone and spell out how the United States would control foreign fishing. Both contain a section which would terminate the conservation zone if and when the International Law of the Sea Conference approves a treaty to which the U.S. becomes a party. If that happens, a new conservation zone would be established along the lines of the treaty.

Both bills would allow the United States to get very tough in controlling foreign fishing. Foreign fishing vessels would have to be licensed to fish inside 200 miles. The U.S. would have the authority to say what they fish for, when and where they do it, how much they catch and what gear they use.

Foreigners would be permitted to harvest only that portion of the allowable catch which cannot or will not be taken by U.S. fishermen.

Owners of foreign boats would have to pay fees for the privilege of fishing. U.S. enforcement personnel would have the authority to board foreign vessels and inspect their catch at any time.

The legislation would give the United States authority to seize fishing gear and/or vessels of foreign fishermen who violate the rules of the fisheries conservation zone. Violators would be subject to fine and imprisonment.

In addition to controlling fishery stocks within the 200-mile zone, both bills make it illegal for foreign fishermen to harvest U.S. salmon anywhere on the high seas. The bills exempt tuna from the provisions of the act and stipulate that they should be managed through international agreement.

The new legislation would require the Secretary of State to either terminate or amend existing fisheries agreements with foreign nations in conflict with U.S. management of the conservation zone.

The Senate bill authorizes up to \$78.75 million to be appropriated over 2¼ fiscal years for management of fisheries stocks and enforcement of the rules for the fisheries conservation zone. The House version authorizes appropriations "as may be necessary."

Besides limiting foreign fisheries, the new legislation would put the United States for the first time into an intensive management program for offshore fishery resources. Final authority would rest with the Secretary of Commerce, who now oversees the national maritime fisheries service.

However, the responsibility for development and execution of the program would rest with seven regional councils. Each council would be responsible for managing a specific portion of seas within the 200-mile zone.

Each council would have the authority to hire staff, determine what resources are in its part of the ocean, and how much can be harvested without damaging those resources.

Management procedures available to the councils would include requiring licenses or permits for all fishermen; limiting seasons, areas and fishing gear for various fish species, and establishing catch limitations. Councils also would have the authority to limit the number of fishermen allowed to harvest a given species.

The make-up and method of selection of the management councils differ slightly under the two bills. But in both cases there would be guaranteed representation from several representatives of state and federal fisheries agencies.

Under the Senate version a "Pacific Fishery Management Council made up of 16 persons from California, Oregon, Washington, Idaho and Alaska would oversee management of fisheries resources off the coast of California, Oregon and Washington.

The House version would create a 15-member "Pacific Marine Fisheries Council" with representation from the same states with the exception of Alaska.

DIPLOMATS DON'T LIKE 200-MILE ZONE IDEA

(By Larry Bacon)

Will the 200-mile fisheries zone which Congress is expected to approve this month precipitate a "hake war" between the United States and Russia? Or one of the other countries which fish off the Oregon Coast?

Probably not. But some opponents of the 200-mile legislation claim it's a possibility.

A similar 200-mile limit established by Iceland recently caused a renewal of a longstanding "cod war" between Great Britain and Iceland over fishery resources off Iceland.

In recent weeks, Icelandic naval vessels have cut British trawl nets, a British tug rammed an Icelandic gunboat and an Icelandic gunboat fired on a British tug.

Backers of the 200-mile zone will say it can't happen here. But only time will tell.

The State Department claims to be worried.

Some of its worries center on how the Soviet Union might react—particularly in these times of strained détente. The Soviets catch 150,000 metric tons of hake a year off the California, Oregon and Washington coasts. Scores of their big factory ships work from early spring through October.

"Hake is awfully important to them," according to a State Department fisheries affairs official. "And it's not just hake. It's pollock as well in the Pacific and a number of species off the East Coast."

The official, who declined to be identified, said that the unilateral extension would put the United States in a position of dictating rather than negotiating with countries such as the Soviet Union over what those countries consider to be their historic fishing rights.

(The Soviet Union and other countries now fishing off U.S. shores are all controlled to some degree by bilateral treaties negotiated with the United States.)

"Nobody likes to be dictated to," he said. "Countries have rattled the saber for a lot less than this. You might think that they wouldn't antagonize us on this score, and then be surprised to find out they are willing to take steps that we wouldn't have anticipated."

The State Department would prefer that the United States wait to extend its fisheries jurisdiction until agreement is reached at a United Nations Law of the Sea Conference that has been holding sessions since 1968.

Officials of the State Department fear that unilateral extension will jeopardize other goals the United States is trying to achieve at the conference, where 140 nations are talking about who will control ocean resources.

The State Department isn't the only agency against unilateral extension of U.S. fisheries jurisdiction. The Navy fears that if the U.S. extends its fishing jurisdiction, other countries might decide to go one step further and extend their territorial seas. That would ban all foreign ships from their water, not just fishing boats. Tuna and shrimp fishermen who have already run up against the extended jurisdiction of some South American countries are opposed to the United States following suit.

There also are moral questions being raised about unilateral extension.

Opponents claim that such extension flies in the face of international law. They argue that the United States has historically refused to recognize extended fishing jurisdictions of other countries, and it would be hypocritical for the U.S. to suddenly reverse its position.

Critics of the bills now in Congress also claim that it would be unfair for the United States to suddenly terminate fishing agreements now in force with foreign countries. The legislation calls for the U.S. to terminate or amend all such agreements which don't comply with the rules for the U.S. fisheries conservation zone.

One of those critics is Sen. Mike Gravel, D-Alaska. He was originally one of the sponsors of the Senate bill. But he recently withdrew his support and is threatening a filibuster against it.

He fears conflict on the high seas. He said it may be necessary to have Navy destroyers on permanent picket duty to patrol the 200-mile zone.

"Is that the threshold we want to raise the world to—the tinderbox we live in where we have a proliferation of nuclear capability in every two-bit nation in the world?" he asked on the floor of the Senate. "That is what we can do and what we will do if we let this legislation come into being."

Supporters of the legislation don't see any mushroom clouds on the horizon.

They claim that the trend in international law is toward 200-mile conservation zones and that most nations which already have extended their jurisdiction have done so without problems.

Most coastal congressmen claim that something needs to be done now to save fisheries stocks from being depleted. They say that at least 14 species of fish of interest to U.S. fishermen are overfished, and 16 other species are at the threshold.

"I'm tired of waiting around for the niceties of diplomacy to save our fish," said Sen. Bob Packwood, one of the sponsors of the Senate bill. "It hasn't worked to date. We cannot just stand by and see the resource depleted."

Lee Alverson, director of the National Marine Fisheries Service Northwest Fisheries Center in Seattle, thinks the transition to a 200-mile conservation zone could be made peacefully.

"We're obviously not going to start a war over this thing," Alverson said. "We're going to sit down and discuss our intent with every nation that's fishing in that zone and try to bring them into more proper alignment with our thoughts. If they don't accept it, obviously we'll have to sit down and negotiate with them."

The Soviets are on record against the 200-mile conservation zone, and claim that bilateral agreements are the best way to protect fisheries resources. However, they have not indicated what their reaction will be to extended U.S. jurisdiction.

Barry Fisher, a commercial fisherman from Newport and a former professor of fisheries at Oregon State University, was part of a delegation of Pacific Northwest fishermen and processors which visited aboard a Russian fishing trawler last summer and talked with the commander of the Soviet fishing fleet.

Fisher said that his experience leads him to believe the Soviets will accept the conservation zone rather than risk being shut out entirely.

"They'll have to go along," he said. "They can't afford not to."

FISHERMEN DOUBT 200-MILE LIMIT EFFECTIVENESS

(By Larry Bacon)

The congressional approval expected this month for a 200-mile U.S. fishing limit is not going to be an occasion for celebration by West Coast fishermen and fish processors.

More likely, they will be keeping their fingers crossed and hoping for the best. They are showing only cautious optimism.

They like the idea of better controls over foreign fishing vessels and better management of fishery stocks.

But they doubt whether restrictions on foreign fishermen will be tough enough. Some question the ability of the United States to enforce the restrictions imposed on foreign vessels or to conduct the kind of research program necessary to determine how each species of fish should be managed.

Many fishermen are angry because the 200-mile limit legislation probably will bring them more headaches in the form of controls and restrictions.

Fishermen and processors are hoping that there will be fewer foreign boats offshore under the licensing program included in the legislation. But some claim the decision will be a political one rather than one based on fisheries research.

"It depends on who's sitting in the bureaucracy back in Washington and how much they're trading off fisheries for other resources," said Lawrence Lazio, president of a Eureka, Calif., based seafood company which has fish-buying stations in three Oregon ports. "We really feel that we were sold down the river by the State Department in the past," he continued.

Lazio and others in the West Coast fishing industry blame overfishing by foreigners in part for a depressed fishing industry.

"As far as I'm concerned, get them to hell out of there and keep them out of there," Lazio said. "But realistically we're a nation of compromise."

Joe Easley, a commercial fisherman from Coos Bay who heads the Oregon Otter Trawl Commission, agreed with Lazio about Federal bureaucrats trading off fisheries resources in the past.

(The Otter Trawl Commission is a state commodities commission which represents those Oregon fishermen who drag nets to catch bottom-dwelling species of fish.) But Easley claims the federal government now appears to be showing more respect for the value of U.S. fisheries resources.

Under both the House and Senate versions of the 200-mile limit bill, the Secretary of Commerce, the Secretary of State and seven regional fishing councils created by the legislation would all have much to say about which foreign fishing vessels are allowed inside 200 miles, what they catch and what their limitations will be.

Fishermen are certain that the actions of the secretaries of State and Commerce are likely to be affected by political considerations. They claim that the regional councils, whose job it will be to develop management programs for fisheries in their respective areas, will have too many state and federal bureaucrats and too few representatives of the fishing industry.

"There's too much political pressure can be applied to them through the Executive Branch and the State Department," said Neil Spencer of Reedsport, owner of two commercial fishing boats. "A guy can't disregard it.

"There better damn well be some fishermen on there, and there better be some processors on there too. But I can't see where there's gonna be."

In the Senate version of the bill, six of 16 members on the regional council for the West Coast would be state or federal officials. The Senate bill does not specify that any of the members would have to be from the fishing industry. Under the House version, seven of the 15 members would be state or federal officials. The bill requires that six members represent commercial or recreational fishing interests.

Enforcement is another question mark to many in the fishing industry. The Coast Guard and enforcement officers of the National Marine Fisheries Service will have to make sure that only licensed foreign vessels are allowed inside the 200-mile zone. And make sure the foreigners are catching only what they are supposed to the way that they are supposed to.

There are few doubts among those in the fishing industry about the ability of the Coast Guard to keep non-licensed vessels outside the 200 miles.

But there are fears that Congress will not appropriate enough to beef up the Coast Guard to do the kind of patrolling that will be necessary. Many also wonder how U.S. enforcement officers are going to determine if licensed foreign vessels are abiding by catch restrictions.

The Coast Guard claims it needs 63 million worth of new equipment and additional operating funds of 47 million per year to patrol the 200-mile zone. That's far in excess of the \$29 million authorized to be appropriated to the Coast Guard over 2 1/4 years in the Senate bill.

"That's a drop in the bucket when you talk about the whole perimeter of the United States plus Samoa, Alaska, Hawaii and the Coast of Puerto Rico," said Ted Bugas, vice president of Barbee Packing Corp. of Astoria and secretary of the Columbia River Tuna and Salmon Packers Assn.

The House bill just authorizes appropriation of "sums as may be necessary."

Dean Murray, manager of the Winchester Bay Seafood Co., and other fishermen and processors claim the only way to keep tabs on how the foreign boats fish is to have a U.S. observer on every boat.

The House bill specifically states that there will be U.S. observers on foreign fishing boats and that the owners will reimburse the United States for the cost of the observers.

One of the problems in administering the new fisheries conservation zone is that there are wide gaps in the knowledge of U.S. fisheries biologists about the extent of fisheries resources. For many species, research by foreign fisheries experts has been much more extensive than that by U.S. biologists.

Those gaps will make fisheries resource management decisions difficult to make.

"In other words, if the Russians want to come in and start fishing intensively for something we know nothing about, we have no justification for telling them they're going to overfish by taking a certain amount out," said Bill Pearcey, an Oregon State University biological oceanographer.

However, Lee Alverson, director of the National Marine Fisheries Service Northwest Fisheries Center in Seattle, said that the Pacific Coast is fortunate to have fewer gaps than many other parts of the country. "Perhaps on the Pacific Coast, research would have to be increased 25 to 50 per cent," he said.

To many fishermen, the prospect of increased federal involvement in fisheries management is just as distasteful as the foreign boats they have to contend with. The fishermen see a danger of duplicate or even conflicting licensing programs, catch quotas and gear restrictions by state and federal agencies. And the fishermen are very afraid of legislative provisions that could curtail the number of fishermen allowed to fish for certain species.

Alverson said it is too early to tell how much federal regulation of fishermen the management of the 200-mile zone will require. He acknowledged that the federal program could conflict with or duplicate state programs.

"But I hope to God it doesn't," he said.

MESSAGE OF SENATOR WARREN G. MAGNUSON REQUESTING CONFERENCE ON H.R. 200; FEBRUARY 3, 1976

Mr. MAGNUSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 200.

The PRESIDING OFFICER (Mr. Fannin) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 200) to provide for the conservation and management of the fisheries, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. MAGNUSON. I move that the Senate insist upon its amendment and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Magnuson, Mr. Pastore, Mr. Hollings, Mr. Muskie, Mr. McIntyre, Mr. Kennedy, Mr. Pell, Mr. Pearson, Mr. Stevens, Mr. Beall, Mr. Weicker, and Mr. Packwood conferees on the part of the Senate.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that H.R. 200, as amended and passed by the Senate, be printed for the use of the Senate and that 500 copies be delivered for use of the Senate Committee on Commerce.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE DEBATE AND PASSAGE OF H.R. 200 (S. 961)

JANUARY 28, 1976

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 961, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 961), to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

The PRESIDING OFFICER. The pending question is the amendment by the Senator from California (Mr. CRANSTON). Debate on this amendment is limited to 1 hour, the vote thereon to occur no later than 11:15 a.m., no further amendments to the amendment being in order at that time.

Mr. KENNEDY. Mr. President, the Senate today has the opportunity to act on the most important conservation bill affecting our coastal resources—the extension of our fishing zone to 200 miles. [Sec. 101]

It is important, Mr. President, that we all understand what is at stake, both for the quantities of fish off our shores and for our fishing industry, if we fail to find a way to manage and protect our fish resources. The National Marine Fisheries Service has given us the list of stocks which are overfished under existing fishing practices and under existing fishing agreements. That list includes yellowfin sole, Alaska pollock, Atlantic and Pacific halibut, haddock, yellowfin flounder, Atlantic sea scallops, northwest Atlantic shrimp, and Atlantic bluefin tuna.

While these stocks continue to be depleted, the number of foreign fishing vessels off our coast increases each year, and the American fishing industry continues to decline. Massachusetts fishermen in 75-foot fishing vessels are watching 400-foot factory-trawlers from other nations take 70 percent of the fish within 200 miles of the North Atlantic coast.

Against this background of grim facts, progress at the last meeting of the International Commission for the Northwest Atlantic Fisheries in Montreal was encouraging. Fishing quotas were reduced, and a more cooperative attitude was perceived. But it is not enough. It is not enough to replenish the stocks. It is not enough to give New England fishermen hope of an equitable share of the take. Poor enforcement or no enforcement means that there is little chance the agreed-to quotas will be taken seriously by all the foreign fishermen plying the waters of the North Atlantic.

Dr. David Wallace, associate administrator of the National Oceanic and Atmospheric Administration and chief U.S. negotiator in ICNAF said earlier this year:

Insofar as ICNAF is concerned, it is perhaps the most sophisticated of our international regimes. Yet despite some accomplishments, ICNAF has been unable to prevent serious overfishing in the Northwestern Atlantic Ocean, and it has been unable to resolve the serious conflicts among the fishermen of various nations. In the future, ICNAF and such other organizations will be even less able to cope with increasing numbers of entrants and increased fishing pressure, because they are (1) unable to ensure optimum production of the resource, (2) increasingly ineffective in allocating or controlling catch and effort, (3) incapable of resolving major issues among user groups, (4) unable to make the timely management decisions required to achieve conservation goals, (5) unable to assure full compliance with negotiated agreements, and (6) not constituted to deal with major social and economic considerations.

Mr. President, we all agree that our fish resources are in trouble. And we know that existing agreements are inadequate to protect these resources. We need the extension of the fishing zone to provide a clear jurisdictional basis for management of our resources. Under this management framework, U.S. fishermen will be given preferential rights over coastal fish stocks; maximum limits will be set for all fishing effort on a particular stock; and foreign fishing nations will be allowed to catch the excess, allocating that excess on the basis of historical fishing practices.

Time is running out for the 25 percent of the world's marine protein resources that lie within 200 miles of our coast. Technology has given us the means to fish these stocks to extinction. We must not forget that the billion and a half people in the world depending on fish for more

than half their daily average supply of protein are depending on us to assure that the fish resources are protected.

Mr. President, this bill would conserve and protect our fish and marine resources; but what it does not do is equally important for those who have expressed concerns about unilateral action in this area. The extension of our fishing zone to 200 miles does not abrogate existing treaties; it does not violate international law; and, it does not lessen the chances of reaching agreement at the Law of the Sea Conference. **[Sec. 401]**

Section 103(b) of this bill is clear: All existing treaties will remain in effect while negotiations are begun with respect to inconsistent agreements for the purpose of either phasing out our phasing down foreign fishing activities to meet acceptable levels. Only after these negotiations are completed may the Secretary of State make any decision to terminate U.S. participation, a step permissible under such agreements.

Nor will the extension of the fishing limit violate international law. Two previous Law of the Sea Conferences failed to agree on the permissible extent of coastal nation fishery jurisdiction. There are no international treaty provisions which circumscribe fishery limits. In regard to customary international law, five members of the International Court of Justice said in the Iceland fisheries decision that—

No firm rule can be deduced from state practice as being sufficiently general and uniform to be accepted as a rule of customary law fixing the maximum extent of the coastal state jurisdiction with regard to fisheries.

If we can deduce anything from the current state of flux in international law on this subject, it is that the consensus among nations supports extended fisheries jurisdiction. Forty coastal States have already extended their exclusive fishery jurisdiction; and the single negotiating text to emerge from the 1975 Geneva sessions of the Law of the Sea Conference reflect, almost word-for-word the provisions of the legislation we act on today. We are not alone in seeking a 200-mile fishing zone to protect endangered species of fish. During my visit to Canada last week, for example, I gained new evidence of that country's deep concern about conservation, and its preparedness to follow our lead on the 200-mile fishing zone.

The suggestion that extension of our fishing zone will weaken or scuttle the chances of reaching a successful Law of the Sea Treaty is not realistic **[Sec. 401]**. The effective date in the legislation we act on today will be January 1, 1977 **[Sec. 104]**, providing enough time for participants of Law of the Sea to complete their 1976 negotiations. Of course, we would all prefer that this problem be resolved by the Law of the Sea Conference. So far that has not happened. And even if negotiations are completed this year, many people who have participated in the sessions predict that it will be 5 to 10 years before any treaty is ratified. By extending our fishing zone now, we therefore recognize that 5 to 10 years will be too late for many of our fish stocks. Yet at the same time, by providing in this legislation that the extended fishing zone will cease to have effect as soon as international agreement is reached, we recognize that international agreement is the most effective way to insure conservation of the world's fish resources.

The legislation we act on today is not designed to take the place of international negotiation, but to encourage effective and enforceable agreement. It is not designed to hamper relations between nations, but rather to end tensions between American and foreign fishermen, and to foster good will among all maritime nations which participate in the world fishing industry. It is not designed to build a seawall around our country, but rather to encourage a reasoned and sensible approach to the conservation of marine resources which are vital to all people around the world. It is not designed to be a permanent solution to a difficult problem, but rather a temporary measure which will assure that, when all the negotiations are finished, there will be fish and marine resources left for the world to share. In extending our fishing zone, we ask all nations of the world to join with us as responsible custodians of the ocean's resources for all generations to come.

Mr. President, in just a few hours the Senate of the United States will be deciding an extremely important question; an issue that has enormous implications not only up in my part of the country, the State of Massachusetts which I represent and the New England area, but also in many coastal areas of this country and really in many other parts of the world.

There are about a billion and a half people of the world's population who depend upon fish products for their very sustenance and existence. In fact, 25 percent of all the fishery resources of this world are adjacent to the coasts of this great Nation of ours, the United States. In spite of extraordinary efforts that have been made by the fishermen and those in positions of responsibility in administration after administration, Democratic and Republican administrations alike, we have seen the greatest intrusion in our history upon those resources by many other countries of the world, resulting in an enormous depletion of fish species. In my part of the country we have seen the virtual elimination of some species which had existed plentifully off those coastal areas ever since this Nation's creation.

Make no mistake about it, Mr. President: The extraordinary technology perfected in the last 5 to 7 years has made possible today what could not have happened for the first 195 years of this Nation's history; the possibility of fishing to extinction the fishery resources which exist off the coasts of this Nation. What we are seeing at the present time is a continual depletion of those resources, with all its implications, not only in limiting opportunities for the fishermen who have been going to sea all their lives and whose livelihood depends upon them, but as a very serious and I think impending threat to the resources of this Nation and the ability of this country to feed its own people from the resources of the sea, as well as our ability to help provide humanitarian assistance in filling the stomachs of other peoples who are today living on the very edge of survival in so many areas of the world.

The efforts that have been made to date in seeking to conserve the resources of this country have been a failure. And there can be no misunderstanding about that matter; no matter how much the issue is debated and discussed on the floor of the U.S. Senate, as it has

been during the last 10 days. All you have to do is talk to the people who go to sea, the people of Gloucester, New Bedford, and so many other areas along the coasts of my State and other States of this Nation. Talk to the people who have gone to the international conferences; talk with those who have been involved in the negotiations, and you will find that the only action that will be understood by those nations which continue to deplete the fishing resources of this country will be the passage of this legislation here today. Only when we pass this bill will we be able to get the kind of protection of those resources which is in the interest of our people and of people around the world.

I am tired of listening to the voices of those who say here in the Senate that this is just a chauvinistic, xenophobic effort by those who support this program. Mr. President, its support comes from those who believe deeply not only in our responsibility to the fishery industries which have served this Nation well for so many years, but also from those who want to maintain our Nation as a food producer and exporter with continuing, ongoing responsibilities around the world to feed the hungry people.

The effect of the Gravel-Cranston amendment would be virtually to gut this responsible legislative program to try to meet what is, I believe, an important national objective and a national need. It has been considered, debated, and discussed by not only the chairman of the committee, the Senator from Washington, but also the Senator from Alaska, Mr. STEVENS, and the other members of the committee. There should be no mistake made about it, Mr. President: The adoption of this amendment would virtually turn the back of the United States on a serious effort in the area of conservation and the protection of one of our most important natural resources.

I hear a great deal of debate and discussion by some Members of this body about the importance of our natural resources. It is interesting to note what kind of response we get from this body when we talk about the oil in some parts of our Nation, or about our coal resources. Where are those voices when we talk about fisheries, which in so many instances can mean the difference between life and death, not only for the people of this Nation but for people around the world?

Mr. KENNEDY. I would certainly hope the Senators who indicate such concern about those conservation measures will recognize the importance and the consequences of this particular effort. Mr. President, the time is running out. It is running out on the fishermen of my State and along all the coastal areas of this country. It is running out on those who are concerned, from all parts of this Nation, with the question of the conservation of this natural resource. The time has run out on our negotiators who have been attempting to resolve this particular problem; and the time is running out here in the U.S. Senate. I certainly hope that the Gravel-Cranston amendment will be soundly defeated, and that the Senate will pass this legislation, which can mean so much to our country, the people of this Nation, and the people of the world.

Mr. President, there is no doubt that between 1.5 and 2 billion people on this Earth go to bed hungry and live under the shadow of starva-

tion. There is no question that we in the United States of America have been richly blessed, not only by the abundance of our natural resources on land but also by having 25 percent of the world's fishery resources off our shores.

Mr. President, there is no question, and it has been brought out in debate, that we Americans have no reason to hold ourselves above all others. When we took the chart put forth by the Senator from Washington and we looked at the species that are overfished, after the colloquy in this Chamber, we agreed that there were 16 species of fish that were overfished, that were endangered and something should be done about it.

When we began to assess the blame as to who brought this problem about, we came to the conclusion that of these 16 species 6 were depleted by foreign fisheries, 6 were depleted by United States fisheries, and 4 were depleted by United States and foreign fisheries.

So now we can stand here—and it is very convenient to stand here and point a finger at the foreigners and say it is all their problem—and give ourselves total jurisdiction, and we will solve the problem.

Where does the blame come here? If a goodly number of the problems of fisheries that are in trouble today are caused by ourselves, will giving ourselves great jurisdiction solve the problem? I say not.

To those proponents of this bill who have said repeatedly that this is a conservation bill, let me simply say that this article 7 amendment, the Cranston-Griffin amendment, does exactly that to this legislation. It makes it a conservation piece of legislation.

The reason why the proponents of this legislation are disturbed is that, with the adoption of this amendment, they will no longer be able to go out and get physical jurisdiction of the 200 miles. If they only wished to have conservation, if they really believe their argument, and if they seek to conserve the species, they can do it through this amendment. But no, that is not what they want.

What really is sought is what was stated by the Senator from Washington in this Chamber, and that is: "We want to drive out every single foreign fisherman within 200 miles off our shores."

Well, that is fine. We can do that unilaterally. We can do it. We are the strongest nation on Earth. It is going to take billions of dollars of defense moneys to do it. We are going to have to put a destroyer beside every fishing vessel.

I submit the American people will not tolerate it because, first, it is not moral; it is not moral in this sense: As the distinguished Senator from Massachusetts stated, there are 1.5 billion people on Earth who are hungry. We are the wealthiest nation in the world. We have 25 percent of the fisheries off our coast. Now we are going to take that 25 percent to the exclusion of all other foreign fishing.

That kind of arrogance and that kind of chauvinism I do not think can be tolerated by American morality sensitivity.

So, if those proponents say they really want to do something about the conservation of fish and the resources that are in jeopardy, they have the vehicle to do it and to do it through this amendment.

Why do some of us oppose the legislation without this amendment?

It is for the very simple reason that we take 200 miles, unilaterally, saying we seek to conserve our fish, when there are other ways of doing it. If we do that unilaterally, then why cannot Spain take the Straits of Gibraltar or Indonesia take the Straits of Malacca and present the same argument? If supertankers were to go through those straits, run afoul, break up, pollute those shores, and ruin their fishery, why would they not have the same logical argument, as we have in protecting our fishery, by taking 200 miles and then wishing to control those straits?

We pooh-poo that argument. We say that is not going to happen. Canada did it. Canada did it, and we did not as much as blink an eyelash.

When we were trying to figure out ways of getting the oil out of Alaska, one of the major oil companies sent a tanker through the Northwest Passage to make a determination whether or not that route was feasible to bring oil to Massachusetts, Rhode Island, and New York. Do Senators know something? While that experimentation was going on, Canada went out and took a 200-mile pollution zone unilaterally. Do Senators know something else? There is no vessel plying the Northwest Passage today, because of that unilateral action.

So I say that if Senators wish to set in motion a chain reaction around the world which will bring anarchy to our fisheries and thwart the only real way we can get 200 miles, then this bill will do it. Let us not misunderstand on that score. I am for a 200-mile zone. [Sec. 101]

Mr. GRAVEL. I am for the 200-mile zone that will not cost billions of dollars in the defense budget to enforce. I am for a 200-mile zone that will be a consensus agreement in the world, where it will cost but a pittance to enforce, because it will be agreed to by consensus. I am for a program that will protect Alaska's anadromous fish throughout their range, which this legislation does not do. [Secs. 2(b) (1) ; 102(2)]

Mr. President, I hope Senators will see that, if the proponents of the bill are true and wish conservation, they can get it through article 7 of the 1958 Geneva Convention. But I submit that is not what they want. They want unilateral, total control of the 200-mile ribbon around this Nation so that they can exclude all foreign fishing [Secs. 101 ; 102]

I submit that will not be morally tolerated by this great Nation of ours, nor will it be tolerated in the world today.

Mr. MUSKIE. Mr. President, I think the issues have been laid out yesterday and this morning by the distinguished Senator from Massachusetts (Mr. Kennedy). As I listened to the closing remarks of the Senator from Alaska I have not heard a more serious misdescription of the purpose of the pending bill and the purposes of the sponsors of this bill than the Senator from Alaska has just stated.

What we are trying to establish is the protection of the fishing resources off our continental shelves [Secs. 2(b) (1) ; 102(3)], not only for our own benefit, but for the benefit of all mankind.

Coastal States, on the record, are the only States which have demonstrated any responsibility for the conservation and management of those resources. We have tried the diplomatic route, over and over again, including the one which is covered by the Cranston amendment.

This one has been floating around here since 1958. It has not worked. It has been specifically rejected by committees in both Houses within the last 3 years.

Mr. GRAVEL. The first question is: Can the Senator tell us when this article 7 effort was tried and, second, can he explain the fact that the House bill has an article 7 in it for anadromous fish [Sec. 102(2)]?

Mr. MUSKIE. With respect to the first point, my argument is not that it has been used and failed but that it has not been used. Notwithstanding the fact that it was ratified by several nations, not including the major fishing nations, of the world, it has not been used because obviously it was not an effective protective device.

That is the answer to the Senator.

With a respect to the provision on anadromous fish [Secs. 2(b)(1): 102(2)], anadromous fish are a special problem. Everyone recognizes that, including the Law of the Sea Conference.

Let me return to my theme in the limited time which I have.

Mr. President, what we are trying to do is to establish some interim protections while the Law of the Sea Conference continues its negotiations, in the hope that it will achieve an international agreement. [Sec. 401]

The indications are that, if other issues can be resolved, the 200-mile fishing zone [Sec. 101] is a viable idea in the Law of Sea Conference. So we say, if that is a fact, let us in the meantime put it in place, prepare ourselves hopefully for a successful resolution of the Law of the Sea Conference, but enable us in the meantime to protect those species which are now under threat of depletion and deterioration.

What this amendment proposes to do is to divert us from that course and to put our reliance upon a treaty that was negotiated and ratified by a few nations but not the major fishing nations of the world. It would involve time-consuming negotiations, which would eliminate the protections from 3 to 12 miles we have now given to our fishermen under international agreements as well as the law, which have been in effect some 18 years. Why? Because the proponents of the proposed legislation will resort to any parliamentary device to defeat our purpose.

Mr. President, I cannot offer an amendment between now and 11 o'clock, but at 11 o'clock, on behalf of the principal sponsors of the pending bill, I shall offer an amendment to the Cranston amendment to strike out everything except the findings. I shall indicate then, as I indicate now, that so far as we are concerned, we will also accept the Thurmond amendment, which would add another 6 months to the negotiating period available to the Law of the Sea Conference—in other words, until July 1, 1977. [Sec. 104]

I say to the sponsors of the Cranston amendment and to the distinguished Senator from Alaska that if they really are interested in pursuing international negotiations as a way to resolve this problem, that is the way to do it.

We have been told over and over in the last 2 or 3 or 5 years that the Law of the Sea Conference is the international vehicle to pursue for an international resolution; but, instead, the sponsors of the Cranston amendment say to us, "No, we would prefer to rely on the Geneva

Convention that was negotiated in 1958," which was not ratified by enough nations to implement until the mid-1960's and which never has been used, never resorted to, by any nation because it was conceded to be an ineffective protective device.

So I shall offer this amendment between 11 and 11:15, which I understand parliamentarily is the only time it may be offered. When we offer that amendment, I will move to strike everything in the Cranston amendment except the findings. Second, I indicate, on behalf of all the principal sponsors of the pending legislation, that we will accept the Thurmond amendment, which would set July 1, 1977 [Sec. 104], as the date to which we can move in negotiations before the pending legislation would be enforced.

With that, I yield for the time being.

Mr. GRAVEL. Mr. President, I wish to address a few brief points. I yield myself 3 minutes to do that.

If the Senator from Maine really wants to protect the species, he can do it through the Cranston amendment, and he can do it on the basis of a treaty. What he is proposing is to do it on the basis of force of arms, to go out and grab 200 miles [Secs. 101; 102], kick everybody out, and think he can make that work. No way in this world can it be made to work. We are all interdependent in the world.

We are saying that if one really wants to conserve fish, this is the vehicle to do it.

Second, the Senator suggests that this is a time-consuming method, and in the same breath he says he is prepared to put back the effective date of implementation of this bill until July 1, 1977 [Sec. 104].

They make the argument that these resources are going to be depleted. They may well be gone by then. We have heard that argument made by the proponents of this legislation over and over.

I suggest to the Senator from Maine that he join us on this amendment, because this amendment would set in motion immediate conservation, and negotiations would begin. If those negotiations were not fruitful in 6 months, a conservation plan would be put into motion. It would be laid right on the line unilaterally. Regardless of what happened at the Law of the Sea Conference, regardless of any nation, there would be a plan of conservation unilaterally.

The difference—and this is why it is legal under this proposal and not legal under the proposal of the Senator from Maine—is that this makes it apply fairly to domestic and foreigner alike, and that is the essence of its legality under international law.

When my colleague says that this amendment will set back fisheries 17 years, all I can say is that a distinguished bevy of individuals differ. I refer to people such as Professor Henkin, Professor Sohn, Professor Baxter, and an international jurist, Mr. Jessup, who said that the statement that this would impair our existing fisheries was utterly specious.

I can explain it from a lay point of view, without going into the semantics of law. The proponents of this bill say that it is legal to grab 200 miles [Sec. 101] and do what they want. Under this amendment, you do it through a treaty; and if you do anything, you must do it fairly to foreigner and domestic alike. I leave it to any reasonable

person to judge what is the more legal course of action in international law.

I should like to add one more point with respect to the Senator from Maine's comment.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. GRAVEL. I yield myself 1 additional minute.

The Senator from Maine really underscored something that should be discussed a little more—that this bill does nothing for anadromous fish [Sees. 2(b)(1) : 102(2)]. There are a few political statements in the bill, a little political cosmetics, but it does not do anything for the anadromous fish. The House was considerably more honest, because they at least tried to implement article 7 to get to anadromous fish. But there is no way you can touch anadromous fish, unless you are prepared to go to war with every nation in the world that might covet these fish, hundreds of miles from our shores.

Mr. PASTORE. Mr. President, we are not trying to grab anything from anybody. Let us have an understanding on that. This is no grab legislation. This is conservation legislation.

As I had occasion to say the other day, you have to get hurt to understand the hurt. In my State, we are hurt.

I do not care about statistics. Let us leave out all this hocus-pocus strategy—how we are going to emasculate and kill this bill. Let us understand the bill. Let us understand the motivation behind this bill. Let us understand the purpose of this bill.

We want an international agreement. We have been trying to get an international agreement. But the trouble is that those who are invading our waters, destroying our pots, cleaning up our fish, do not want an agreement. That is what this thing is all about.

We are not saying that this becomes effective the minute it is enacted. We are saying that it becomes effective in July of 1977 [Sec. 104]. Why? Because we want the parties to work out an international agreement. If they come back and say it is 50 miles, that is it. That is how badly we want it.

As to all these crocodile tears about what we are doing to navigation, sometimes I have to go upstairs and get my rubbers, because those tears really flood this floor. We are not impeding navigation in the least. It has nothing to do with navigation. If they want to sail their ships within the 200-mile limit and not destroy our fisheries, they can do so. Nobody is going to stop them. We are not putting them out. We are just saying, "If you come in, let's have some rules to go by."

The haddock is all gone. Our lobster pots are being destroyed so badly that I had to appeal to Mr. Wilmer Mizell, the Administrator of EDA, to come up with a loan of \$250,000. Why? Because they crucified our fishermen in Rhode Island. They destroyed all their pots.

They are little people—one man with one helper out there. Do Senators know what happened? These enormous trawlers came along and plowed right through and said: "This is our right. This is our right under international law." When was plunder anybody's right under any law? That is what has been happening and that is what this is all about.

If the Senator is against a 200-mile limit [Sec. 101], why does he not vote against the bill? Why all this strategy in the cloakroom, in somebody's office, to see what someone can come up with in order to emasculate the bill? That is what this is all about.

As to the idea of going back to 1958, if there was a binding treaty in 1958, those pots in Rhode Island would not have been destroyed. But they were. We have pictures of the foreign boats that did that, and then their governments denied it. They said, "You go fish." There was no place else for us to go and fish, because these countries were cleaning it out. That is what they have been doing.

Let me tell you, if we allow this, we are up against what Teddy Roosevelt was up against when they began to plow down our forests, when they began to ruin all our natural resources. They come in here with these big, big factory ships. They have their canneries on board. Did the Senator know that? They have facilities on there to can, right on the ship. Then they take it back home. Then they try to sell it to us.

Here we are, we have our own fishermen going around begging.

If the Senator wants to do something to help Americans, this is his chance. We are not precluding an international agreement [Secs. 2(c) (5); 101]. We want one. If they come back and say 15 miles, that is the end of this bill. That is how fair we are. But unless we prod, unless we act unilaterally in this matter now, we will never get a multilateral agreement. That is what we want.

We go to these conferences and we get the razzmatazz: Everybody is for this, everybody is for that. But when we put the paper in front of them and ask them to sign, they say, "I cannot write my name." The[y] will not sign it. They will not make anything of it.

They will give a lot of talk. They will talk us deaf, dumb, and blind. They will get up there and beat their breasts about how holy they are. Then the next thing we know, they have their ships over here, destroying everything that is precious to us.

We want them to come in. We want to give them a fair share. But we want our fisheries to come under some management [Secs. 2(b): 102], some kind of orderly control. That is the reason we brought out this bill—not to hurt anybody, but, for once in our lifetime, to help Americans.

What is so bad about that? We bleed for the Russians, we bleed for the Chinese, we bleed for the Japanese. We bleed for everybody under the sun. Down there in the State Department, they have an Asian desk, they have an African desk, they have a European desk, but they do not have an American desk.

Is it not about time we had an American desk? This is what this is all about. All I am saying is, give us a chance. Do not give us the hokuspokus of this strategy, this treaty, that treaty. We have been trying that for years. And every time we try, we end up behind the eight-ball.

So I say to my friend, give us a chance. Give us a chance. We have been hurt badly. And the fish are not there any longer.

If we kill off propagation, that sea will be barren, and that is what we are trying to avoid.

We want something there for everybody. But we do not want the greedy ones to come in and take it all, not when it belongs to us.

I thank the Chair.

Mr. GRAVEL. Mr. President, I yield myself 3 minutes to respond to the distinguished Senator from Rhode Island.

I wish to tell the Senator from Rhode Island that everything he said, I subscribe to. The only thing I would add, to correct a slight misunderstanding or misrepresentation of fact, is that the Russians have paid for damages by vessels that have run over pots. So the statement made that "these foreigners have never paid for any damage they have done" is not entirely accurate.

Second, I have seen charts, when I was in Rhode Island, I have had people show me charts of how the Russian fleet would move around precisely to avoid those pots.

We do make statements, when carried away by enthusiasm, that may not be entirely accurate. The facts are that a check has been written and given to our people, and it has been done by foreigners.

Mr. PASTORE. The Senator tells me he went to Rhode Island. Is that correct?

Mr. GRAVEL. Yes.

Mr. PASTORE. He went to Newport, is that correct?

Mr. GRAVEL. Right.

Mr. PASTORE. Did the Senator talk to the fishermen?

Mr. GRAVEL. Yes, I talked to the fishermen.

Mr. PASTORE. What sort of reception did they give him?

Mr. GRAVEL. They were opposed to my position.

Mr. PASTORE. They ran him out of the hall, did they not?

Mr. GRAVEL. They did not run me out of the hall. His people are fine citizens. His fishermen treated me with courtesy.

Mr. PASTORE. That is not the way it read in the newspaper, my friend. [Laughter.]

Mr. GRAVEL. Sometimes we see exaggerations occur, not only on the floor of the Senate, but also occasionally in the press.

But let me ask my colleague: He makes the statement that it is "those foreigners." Certainly, there are no votes for me in defending foreigners. What I am trying to do is defend the truth.

We had a list. My colleague from Rhode Island was not on the floor when I made the statement earlier. We had a list put forth here by the Senator from Washington as to what the depleted stocks were. We arrived at an agreement in colloquy that there were two more than shown on his chart. There were 16 stocks altogether.

The Senator talks about the haddock being gone. The haddock is gone because of foreign fishing and U.S. fishing. Of the 16 stocks endangered, 6 of them have been overfished by Americans. We are not without sin. When the Senator stands here and says we have to take this action to protect the stocks, he would be entitled to make that statement if we were without sin. But we have sinned like anybody else.

The tally is very simple. Of the 16 stocks depleted, 6 were depleted by Americans, 6 by foreigners, and 4 by Americans and foreigners. All this amendment does is say, if we want to protect the stocks, we can do it under the treaty.

The problem is, the Senator wants more than just conservation [Sec. 101]: he wants to be able to have a monopoly. When he does that, he sets in motion a reaction around the world that will bring anarchy to the seas and destroy the Law of the Sea Conference.

If the Senator's goal is just conservation, he has it here. If he wants to protect his fishpots, he has it in this amendment. He has it under article 7. The problem is, though the argument has always been made that this is a conservation bill, it is not a conservation bill. That is only one facet of it. The Senator wants more than that. He wants to drive all the foreigners out of the 200-mile area [Secs. 101; 102]. That is good politics. He can get a lot of votes, a lot of applause. But that is not good policy in today's world of interdependence. It is not moral.

We are the wealthiest nation in the world. Now we want to get 25 percent of the world's protein in our own little hands. That will not work in this world of nuclear proliferation. If the Senator wants endless fish stocks for his people, he can vote for this amendment. That is the only way we can get conservation, because I submit that if we place in motion a chain reaction where other nations can act unilaterally, as we act unilaterally, they will follow our suit like a brushfire with the wind behind it, and everybody will act unilaterally in an interest that they perceive to be their own. That will produce anarchy in the seas and will produce a run on the fisheries of Alaska and a run on the fisheries of the east coast of the United States.

Then the Senator's fishermen will come back to him and say, "Well, Senator, how is it that it did not happen the way you said it was going to happen? How is it we cannot pay for the gasoline for our boats now, after we got this supposed 200 miles?" Then he will come back to the Senate for appropriations to send the gunboats out to drive the foreigners out.

If we want to do that, then we can exempt this legislation, have the honesty and integrity to exempt this legislation from the War Powers Act. Because we are saying, "Mr. President, we are taking 200 miles [Sec. 101]; now you go defend it and you go take it."

If the President does not do that, then the Senator has not given anything to his fishermen and has not brought about conservation.

This amendment will permit conservation to take place. If that is all the proponents want, they have it in this amendment.

MR. PACKWOOD. We talk about immorality. The situation is that the immorality is not on our side. Before I came to this body, I can remember someone in Oregon telling me not to be hasty; if we wait, we can get satisfaction. Those doubledealing, doublecrossing, pinstriped diplomats have been selling us down the river. They have done everything but advise the fishermen to cast their nets on the other side of the boat, and I think some of them think they have the right to tell them to do that.

It will not work. We have waited 10 years. All we are asking in this bill, and we do not want it gutted with this amendment, is give us a chance to protect our own fishing industry. There is going to be a problem. Once we get this limitation, we are going to have a conservation problem and we are going to have to set some standards so our fisher-

men do not overfish. We understand that. But, at least, give us a chance to have some jurisdiction over the very resource that is now being fished dry. We cannot wait any longer.

As far as morality is concerned, the most moral people in the world are the fishermen, who have waited and waited, on the coasts of our shores. Unpaid fishermen, I say, with claims for nets that Russian trawlers have run over unpaid that they are entitled to have paid. We have never gotten a cent in Oregon out of the Russians.

I yield back my time.

If you want jurisdiction to save the fish, this will permit it, and will give it to you in a very legal fashion under a treaty. If we pass it, it will require unilateral action, but it will do so legally.

We want to conserve the fish; we want to do something about these stocks. We want to do something on an interim basis until the Law of the Sea [Sec. 401] comes into being, but we want to see the Law of the Sea come into being and not see that negotiation destroyed.

So if it is the stocks you want to protect, the Cranston-Griffin amendment does exactly that. It does not do more. It is the "more" that is the dangerous part of the action, because then we take unilateral action, and other nations will exercise the same right.

If we, the most powerful nation on Earth, can do something unilaterally, why cannot other nations do it? And, of course, they will. The difference is they will exercise a unilateralism as they perceive it, and they may not perceive it the way we perceive it. This, of course, will be the beginning of the end.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, as we have listened to the debate and discussion about the proposal of the extension of the 200-mile limit [Sec. 101], it is said that it is a unilateral proposal, and that the article 7 proposal is not unilateral. Well, that argument, I think, has been addressed by the distinguished Senator from Rhode Island. We all understand the commitment and the interest of those who are supporters of this proposal to the operation of international law and a willingness to abide by the Conference on the Law of the Sea.

But the interesting point of the matter that the Senator from Alaska has left out is when this proposal of article 7 was submitted to the various countries, what was the response of the Soviet Union? They said, "nyet," no, and they turned it down.

What was the response of the eastern bloc countries? They said, "No." They turned it down.

Poland, Bulgaria, East Germany, and the Soviet Union have all turned it down. So, sure, some countries have approved it. Tobago has approved it, Cambodia has approved it, Switzerland has approved it. But that does not happen to be the problem we are facing today; they are not fishing off our shores.

So I fail to understand the logic of the reasoning of the Senator from Alaska (Mr. Gravel) and the Senator from California (Mr. Cranston) when they say the extension of the 200-mile limit [Sec. 101] is unilateral. Quite obviously it is not, because those who are supporting it are committed to the process of international law. You and I know what is going to happen. Any time any proposal is going to be

made on the issue of conservation; and we ask the Soviet Union or the East bloc countries to abide by it, they are going to give us the same answer that was given to the United States when they were asked to be signatories. The answer is going to be "No," make no mistake about it.

Mr. HATHAWAY. I thank the Senator for yielding.

Most of the points made yesterday or today in debate have been discussed, and I will not impose upon the Senate by reiterating those points, but I just wanted to say, in answer to the argument made by the Senator from Alaska (Mr. Gravel) that this will set up a chain reaction where we are going to get other countries unilaterally imposing limits such as this, I say if that does happen, that will be a good thing; that will hasten a Law of the Sea agreement because our own strong bargaining position, which will start this chain reaction, will force all of the countries involved to come to an agreement much more quickly than if we adopt the amendment of the Senator from California and the Senator from Alaska which puts us in a very poor bargaining position which will not be any inducement whatsoever to enter into a Law of the Sea Conference and then come to some agreement on this matter.

So I would like to say simply, in conclusion, if we are going to bargain in this matter, we have got to bargain from strength, and if we should bargain from strength, we should retain the 200-mile limit [Sec. 101], and if it does set up a chain reaction in the world, it is in our favor, and it is going to hasten the time when we can enter into an agreement that will be acceptable to all of us.

Mr. MAGNUSON. Mr. President, I yield to the Senator from Maine and, as I understand the parliamentary situation—and I make this inquiry—the Senator from Maine has an amendment, which is cosponsored by several of us, to the Cranston-Griffin amendment, and he cannot present it, under the unanimous-consent request, until 11 o'clock, but I want to yield such time—

The PRESIDING OFFICER. The Senator is correct.

Mr. MAGNUSON. To the Senator from Maine to explain it ahead of time before he presents it at such time as he wishes.

The PRESIDING OFFICER. The Senator from Washington has 1 minute remaining on his time. He yields that 1 minute to the Senator from Maine.

Mr. MUSKIE. Mr. President, as I indicated earlier, after 11 o'clock, the time to which I am restricted, I will offer an amendment which, in effect, will strike everything from the Cranston amendment except the findings. That is a rough description, but I think it is accurate. I think, in addition, in behalf of the cosponsors, who include Senators Magnuson, Stevens, Kennedy, Hathaway, Pastore, Packwood, Brooke, Hollings, McIntyre, Williams, Jackson, and myself, we have agreed that we would accept the Thurmond amendment which would postpone enforcement of the coming legislation until July 1, 1977 [Sec. 104] in order to stretch out the negotiating time available on the Law of the Sea Conference.

I shall offer this amendment, Mr. President, when I am ordered to do so after 11 o'clock.

Mr. CRANSTON. Mr. President, I would like briefly to summarize the situation in two ways:

First, the amendment I have offered with Senator Griffin is a compromise, not a device to kill the purposes of the bill of the distinguished Senator from Washington.

The fishing conservation measures are the same in the amendment and in the bill.

The objective of the 200-mile conservation zone is the same.

There is agreement that unilateral action by the United States is or may be necessary to protect fish stocks.

The difference is that the amendment offered is a method recognized by international law.

The amendment provides a way to achieve management conservation controls more swiftly than the original bill.

Second, I would now like to touch on the arguments made against the amendment.

The statement has been made against it that by relying on article 7 of the 1958 Geneva Convention on Fishing, it would force the United States to surrender its exclusive fishing rights in the 9-mile zone beyond our territorial limit of 3 miles.

Answer: The amendment applies article 7 only to "the high seas adjacent to the fisheries zone." "Fisheries zone" is defined in the amendment to mean the 12-mile exclusive fishing zone established in 1966 by Congress. Nothing in article 7 forces the United States to open its 12-mile exclusive fishing zone to foreigners. That is confirmed by the State Department Legal Adviser.

Article 7 does require that U.S. conservation measures be applied outside the exclusive zone in a nondiscriminatory way.

Charge against the amendment: The Cranston-Griffin amendment denies preferential fishing rights to U.S. fishermen.

Answer: Preferential fishing rights, according to the World Court, cannot be asserted unilaterally without negotiations. Preferential fishing rights, which the World Court has recognized, are an issue to be considered in applying the nondiscriminatory standards as required under article 7. It would not be nondiscriminatory to accord greater weight to American preferential rights in fishing on high seas beyond our 12-mile contiguous zone.

The final charge: The major foreign nations fishing off our shores, the Soviet Union, Japan, and Poland, are not parties to the Convention on Fishing and Conservation of the Living Resources of the High Seas. Therefore, it is argued, these nations would not be subject to any enforcement procedures.

The answer: The most authoritative response on this question is the letter from the Legal Adviser of the State Department to me which appears in yesterday's Record. It is a full answer to that charge.

In addition, the Convention on the Continental Shelf has been applied successfully to limit lobstering by nonparty or nonsignatory nations.

Mr. President, I am prepared to yield back time—no, I yield 1 minute to the Senator from Alaska.

Mr. GRAVEL. Mr. President, just to respond as to the amendment, the amendment the Senator from Maine will pose, there will not be a distinction made by the foreigners as they view the legislative action of the Senate. So if we push back again another 6 months to supposedly accommodate the Law of the Sea, it will not be perceived as having any effect at all from the foreign point of view.

Example: All the House did was pass a bill, and the Mexican Government initiated their whole 200-mile patrimonial seas situation as a constitutional amendment.

So the mere fact we act unilaterally, regardless of the enforcement date—that will be perceived as a unilateral vote by the world, and will set in motion a chain reaction.

I hope our colleagues will not vote for the Muskie gutting of the Cranston amendment.

I hope we will proceed with the Cranston amendment using article 7 so that it can initiate the proper legal conservation programs that are necessary to save our fish stocks pending enactment of a Law of the Sea Agreement, which is somewhat imminent in the world today.

Mr. TUNNEY. Mr. President, I am a cosponsor of Senator Cranston's amendment, and with its inclusion I would be very pleased to join my distinguished chairman, Senator Magnuson, in support of this legislation which I know is so important to him.

Mr. President, from the time of its introduction I strongly opposed S. 961 because it unilaterally extended the U.S. territorial waters [Sec. 101]. I have repeatedly asked my colleagues to reject this legislation and instead instruct the President to push for prompt and appropriate action by the participants in the Third Law of the Sea Conference. The United States must lead the other nations of the world to the realization that efficient allocation of scarce resources and materials can only be achieved by international accord.

Senator Cranston's amendment retains the fisheries management provisions of S. 961, while striking the assertions of unilateral 200-mile jurisdiction [Secs. 101; 102] from the bill. In lieu of unilateral expansion the amendment invokes article 7 of the 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas as a proper way to establish emergency conservation procedures.

This amendment is very important because it addresses international resource management problems through established international channels. Furthermore, Senator Nelson's perfecting amendment implements the concern for speedy promulgation of conservation measures by directing the Secretaries of State and Commerce to institute negotiations under article 7 within 30 days of enactment.

Mr. President, I share the view that if Congress enacts legislation unilaterally claiming a 200-mile jurisdiction off our shores, that the Law of the Sea Conference will be adversely impacted to a critical degree.

However, if the Congress and the President were to initiate an action under article 7 of the 1958 Geneva Convention on Fishing and Con-

servation of the Living Resources of the High Seas, I believe that the fishery conservation goals sought by the advocates of unilateral 200-mile legislation would be legally and more efficiently secured.

I call on my colleagues to vote in favor of Senator Cranston's amendment to S. 961.

Mr. GRIFFIN. Mr. President, in the past 2 months I have written and spoken at great length about the dangers inherent in S. 961, and the many advantages of relying instead on true conservation measures following the principles set forth in article 7 of the 1958 Geneva Convention on Fishing.

Now we have come to the final day of debate. Although both sides have been argued ably during this long and tiring dialog, I find myself this morning more convinced than ever that this amendment sets forth the best procedure for protecting our endangered fishery resources.

Before we vote, I want to respond briefly to a major objection that has been raised by opponents of this amendment.

The critics of this amendment have contended that it would be doomed to failure because many of the nations presently fishing off our shores have not formally ratified the 1958 convention on fishing. It is argued that states like Japan and the Soviet Union, which have not ratified the convention, would not recognize such conservation measures if unilaterally imposed.

To begin with, I find a certain irony in this new found concern that other nations might not accept our unilateral claims. The claims inserted by S. 961, as it now stands, are many times more objectionable from the standpoint of foreign nations and foreign fishermen, that the steps proposed in accordance with article 7. Those who now argue that we would have difficulty enforcing conservation measures under article 7 should give more thought to the infinitely greater problems that will confront us in trying to enforce S. 961 if this amendment is rejected.

Furthermore, there is reason to believe that other nations—including both Japan and the Soviet Union—would be much more willing to cooperate by recognizing conservation measures based on article 7. For example:

Arthur H. Dean, who was America's chief negotiator at both the 1958 and 1960 U.N. Conferences on the Law of the Sea in Geneva, has observed that "while Japan and Russia did not sign (the) treaty, it is my understanding that they have agreed to it in practice."

Donald McKernan—former Special Assistant to the Secretary of State for Fisheries and Wildlife—has testified before a subcommittee of the House Merchant Marine and Fisheries Committee concerning article 7 that—

[M]y own judgment is that all nations fishing off our coasts would make certain that negotiations were successful and . . . with respect to the major fishermen—that is, the Soviets, West Germany, and the Poles—I feel confident after my discussions with people from those countries that we could reach agreement and we would, in fact, not be obliged to apply any unilateral action against these fishermen . . .

Ambassador John Norton Moore—currently the Deputy U.S. Special Representative to the Third U.N. Law of the Sea Conference—is

of the view that both the Russians and the Japanese would be more receptive to conservation measures along the lines set forth in article 7—whereas they would strongly oppose the approach taken by S. 961.

Finally, Mr. President, there is significant legal opinion that non-discriminatory conservation measures, based on appropriate scientific findings, and implemented following 6 months of negotiations in the manner set forth in article 7 of the Geneva Convention on Fishing, would be recognized under international law, even as against states which are not parties to the convention.

Pursuing this question, my staff has been in contact by telephone with a number of this Nation's foremost legal scholars—people like Professors Louis Sohn and Richard Baxter, of Harvard Law School, and Prof. Myers McDougal of Yale.

The majority of those we were able to reach expressed the view that for the United States to implement conservation measures in accordance with the procedures set forth in article 7 would be consistent with our obligations under international law. Further, they indicated that such measures could be applicable under international law, even as against states which are not parties of the convention.

Perhaps typical were the comments of Professor Sohn, who provided me with a detailed letter responding to these questions. Among his conclusions were: There can be no question that the United States is entitled to adopt unilateral measures of conservation in accordance with article 7 of the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas. The Convention was in some respects declaratory of international law and, in particular, its provisions relating to conservation were considered by the 1958 Conference as declaratory of the basic requirements of international law. Consequently, any conservation measures enacted by the United States in good faith under article 7 would be applicable to states which are not party to the Convention, including the Soviet Union and Japan.

Professor Sohn concludes by contrasting the article 7 procedure with “the original S. 961 which goes beyond conservation needs—violating various rules of international law.” Mr. President, I shall ask unanimous consent that the complete text of Professor Sohn's letter be printed in the Record at the conclusion of my remarks.

Of course, I do recognize that not all legal scholars agree that the article 7 approach can be validly enforced as against states which are not parties to the Convention. The law is complex. But I have been unable to find a single international legal scholar who does not agree that the approach set forth in this amendment is much more likely to be found consistent with international law than the alternative proposed in S. 961 as it now stands.

Mr. President, the third U.N. Conference on the Law of the Sea will reconvene in New York City just 2 months from tomorrow.

The action we take today on this amendment and this bill will send a message to the delegates to that Conference.

Rejection of this amendment and passage of S. 961 will speak for unilateral claims, for disregard of international law, and for survival of the strongest.

Passage of this amendment will send a different message—a message of responsible respect for the resources of the oceans; a message of international cooperation through international law; and a message of peaceful settlement of international disputes.

I urge my colleagues to join with me in supporting and passing this amendment.

I ask unanimous consent to have printed in the Record a letter from Professor Sohn.

There being no objection, the letter was ordered to be printed in the Record, as follows:

HARVARD LAW SCHOOL,
Cambridge, Mass., January 27, 1976.

HON. ROBERT P. GRIFFIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRIFFIN: As requested, here are the answers to your questions.

There can be no question that the United States is entitled to adopt unilateral measures of conservation in accordance with Article 7 of the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas. The only condition is a requirement for negotiations in good faith for a period of six months. If the amended S. 961 is enacted in the near future and if negotiations start immediately, the relevant six-month period will expire long before 1 January 1977 (the proposed operative date for S. 961).

The right of the United States to take such action has been expressly recognized by the more than thirty parties to the 1958 Convention. In addition, that Convention was in some respects declaratory of international law and, in particular, its provisions relating to conservation were considered by the 1958 Conference as declaratory of a basic requirement of international law. For instance, Article 1(2) speaks of the duty of all States to adopt such measures "as may be necessary for the conservation of the living resources of the sea." According to Article 4(1) when nationals of two or more States are engaged in fishing the same stock, these States shall, at the request of any of them, enter into negotiations with a view of prescribing by agreement "the necessary measures for the conservation of the living resources affected." As was pointed out by Judge Dillard in the Icelandic Fisheries Case (I.C.J. Reports, 1974, p. 3, at 69), "in the light of the practice of States and the widespread and insistent recognition of the need for conservation measures" this principle "may qualify as a norm of customary international law."

The 1958 and 1960 Conferences disagreed on the extent of the jurisdiction of the coastal State, but there was no real disagreement on the adoption, by one means or another, of all the necessary conservation measures. While the 1958 Convention expressed a preference for achieving a solution in each instance by negotiation, it authorized also unilateral action. In case of a dispute whether a particular action was necessary for conservation purposes, the Convention provides for settlement of this question by a special commission, thus ensuring against any arbitrary action.

Consequently, any conservation measures enacted by the United States in good faith under Article 7 of the 1958 Convention would be applicable to States which are not parties to that Convention, including the Soviet Union and Japan. Like the parties to the Convention, they can contest the necessity of any particular measures but not the right of the United States to take them. To equalize the rights of non-parties with those of parties, the United States should be willing to accept the jurisdiction of the international commission under Article 9 of the Convention with respect to non-parties as well.

The use of the procedure provided for under Article 7 has thus the advantage of enforcing a generally accepted rule of international law, unlike the original S. 961 which goes beyond conservation needs and tries to establish a unilateral claim to broad fisheries jurisdiction in a 200-mile zone, violating various rules

of international law which for years were the basis of strong United States complaints against unilateral actions by other States. Action under Article 7 is completely different in character and its basic legality from the action proposed by S. 961.

Sincerely yours,

LOUIS B. SOHN,
Bemis Professor of International Law.

Mr. MUSKIE. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. MUSKIE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 2, line 12, strike the comma and insert a period and strike the words after the period through line 19.

Page 2, line 20, delete "(11)" and insert "(10)".

Page 2, strike line 25 through line 13, page 12.

Mr. MUSKIE. Mr. President, it is interesting that the distinguished Senator from Alaska refers to my amendment as a gutting amendment.

If that is an accurate description, then I say it can be made more accurate by describing it as a gutting amendment to a gutting amendment because that is exactly what the Cranston amendment is designed to do.

This restores——

Mr. CRANSTON. I would like to say that I am not in the gutter.

Mr. GRAVEL. I second the motion.

Mr. MUSKIE. The amendment makes it possible for Senators to focus on the bill itself and that, I think, is what we should do.

In effect, it is an up and down vote on the bill with one modification. Unfortunately, the Parliamentarian advises me we could not include in this amendment the extension of the enforcement date to July 1977 [Sec. 104], or I would have included it. But the managers of the bill and the cosponsors of this amendment have indicated their support for the Thurmond amendment which would extend the enforcement date to July 1, 1977. That is our commitment, and I would want the Senate to understand it.

Mr. STEVENS. Mr. President, I want to compliment the Senator for his move in taking the findings from the pending amendment, and adding them to the bill [Sec. 2].

The interesting thing about those findings is that they support intent, the intent of our bill.

I wish to compliment our good friend from Rhode Island for his fine words of support. He has demonstrated again what a great loss it will be when he is no longer on this floor.

He has, I think better than any of the rest of us, described the need for this legislation.

Make no mistakes about it, the genesis of the amendment that Senator Muskie is trying to correct was, in fact, the State Depart-

ment and the Defense Department, we know that. They made the same statement before during consideration of the 12-mile zone that they are making now about the 200-mile zone. They are afraid of confrontation. What my colleague from Alaska fails to see is that the confrontation would come sooner under the article 7 procedure than under our bill.

Our bill specifically says to negotiate if there is any conflict [Sec. 202]. The problem with the article 7 procedure is that only 34 nations in the world have agreed to that convention, none of whom have major fishing fleets off our coasts. We would be out trying to enforce a convention that the parties negotiating it in the whole period of negotiation refused to accept.

It would be the same as foreign nations trying to enforce compulsory supplements protocol against us. We know that would not work, with due respect to some of the legal eagles that the State Department has corralled. By the way, they corral them when they agree with them. I do not find they let anybody in that disagrees with them.

But when it comes down to it, with all due respect. I would be happy if one of them had ever tried a case, or ran for dog catcher, or sheriff, even, any activity that had given them some commonsense in dealing with American problems first.

I wholeheartedly agree with what Senator Packwood said. The problem really is that we continue to be sold down the river.

If those were American boats out there, were American business boats, fishing business boats, analogous to the agribusiness, that large U.S. corporations out there vacuuming and cleaning the bottoms of the sea off our shores, I ask the Senator from California, what would he do about them?

The Senator knows what he would do. Just what we are trying to do here.

We are trying to say that regulations apply to both Americans and foreigners alike, but we get preference.

The difference, really, is in our approach in the Magnuson Act, and I want everyone to recognize what this is. This is a signal to the world that we are going to impose conservation concepts on the oceans off our shores. It is right that it be called the Magnuson Act.

If we had American business out there doing this, the Congress would rise up in righteous indignation: and Congress is rising up in righteous indignation about this. Who has been protecting the foreigners? It is the State Department that has protected them all along.

They go to these international meetings where quotas for the foreign fishermen are discussed first.

Thank God that is changing. I have indications that the attitude of the State Department may be changing. In the past, regarding pollock for example, if the Russians and the Japanese wanted to take 2 million metric tons, the State Department would negotiate them

down to 1.3 million metric tons when the sustained yield was only 1 million tons or less. We have negotiated away our position to the point that nothing is left for American bottom fishermen.

I would say in all due respect to those people who are offering this basic amendment, that Senator Muskie is trying to correct, that they know what they are doing. They have put us on a treadmill, like white mice in a little cage.

Under the Cranston amendment not only would we have a confrontation that would be far worse, but we would be right where we are today, with no Law of the Sea Conference.

It took 8 years to ratify the basic convention that they are trying to impose on us now, and in that 8 years, only 34 nations agreed to it. If we can get the Law of the Sea Conference to complete its work next year, it would be at least 8 years before we have enough nations of the world ratify that treaty to make it become law and the chances are that the Japanese and Russians would not sign a blasted thing anyway. So we would be worse off than now.

I know in the interest of comity, this is sort of an uncontrolled 15 minutes that we maneuvered last night—and that is the word for it.

Mr. MAGNUSON. Mr. President, if I may have 10 seconds, it has not been brought out in this long debate here that one other country, the People's Republic of China is building and probably will have one of the greatest fishing fleets in the whole Pacific in this period of time.

Of course, they are not going to sign any agreement, any agreement on fishing.

Mr. STEVENS. I wholeheartedly agree.

Mr. MUSKIE. Mr. President, just another 30 seconds, and then I will yield to the Senator from California. This time is not controlled. I do not want to take advantage of my position. I am sure the Senator would like to have time to reply.

I add this thought. I get the implication from the Senator from Alaska—and I doubt very much he believes it—that unilateral action by the United States in its own interests is never justified.

We defend ourselves through our Military Establishment unilaterally at the same time that we seek to negotiate international agreements to bring the arms race under control. Unilateral action at the same time we use the world forum to work toward peace.

In this instance, we are doing the same thing. That is the purpose of this amendment, to assert our unilateral interests, to prod an international forum into recognition of those interests.

As a matter of fact, the formula contained in this bill is the very formula that seems highly likely to be included in an international agreement if it is negotiated.

So with the proposal that I have offered the Senate, which will take two actions: First, approval of my amendment; second, the approval of the Thurmond amendment in this proposal, what we will do is assert our interests as a country in these resources off our shores and, at the same time, provide another 6 months, until July 1, 1977 [Sec. 104], to pursue international negotiations of the Law of the Sea Conference.

The Cranston amendment would simply be for that objective.

Mr. CRANSTON. Mr. President, let me first say that I am glad the Senator from Alaska has acknowledged that the State Department and DOD are behind this amendment. I stated yesterday that, in effect, the administration was for it. Whether what the Senior Senator from Alaska has said means "the administration is for it," I do not know. But rather plainly the State Department and the Department of Defense, for reasons related to diplomacy and national defense, are supporting informally, if not formally, the Griffin-Cranston amendment.

All arguments have basically been covered in regard to this measure in the rather long debate that we have had.

I would like to excuse myself from the gutter, to use the terminology of the senior Senator from Maine, because the amendment that we have offered is not designed to gut the Magnuson bill. The amendment is designed to achieve the objectives of the Magnuson bill by resorting to approaches covered by international law. Our objective is to avoid a unilateral leap 200 miles out without first negotiating. If necessary, we would have the right, after negotiations, to proceed to establish conservation measures exactly like those called for in the Magnuson bill.

Fifteen minutes were allotted for this amendment. About 10 minutes were used by the proponents of the substitute. We do not need all of our time. All the arguments have been made. I, therefore, move to table the Muskie amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Maine. On this question the yeas and nays have been ordered and the clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Nebraska (Mr. CURTIS) are necessarily absent.

The result was announced—yeas 31, nays 64, as follows:

[Rollcall Vote No. 11 Leg.]

YEAS—31

Bartlett	Gravel	Percy
Brock	Griffin	Proxmire
Chiles	Hansen	Scott, Hugh
Clark	Hart, Gary	Stafford
Cranston	Hartke	Stevenson
Culver	Haskell	Stone
Fannin	Hruska	Thurmond
Fong	Huddleston	Tower
Garn	Javits	Tunney
Glenn	McGee	
Goldwater	Nunn	

NAYS—64

Abourezk	Hatfield	Moss
Allen	Hathaway	Muskie
Beall	Helms	Nelson
Bellmon	Hollings	Packwood
Bentsen	Humphrey	Pastore
Biden	Inouye	Pearson
Brooke	Jackson	Pell
Buckley	Kennedy	Randolph
Bumpers	Laxalt	Ribicoff
Burdick	Leahy	Roth
Byrd, Harry F., Jr.	Long	Schweiker
Byrd, Robert C.	Magnuson	Scott, William L.
Cannon	Mansfield	Sparkman
Case	Mathias	Stennis
Church	McClellan	Stevens
Dole	McClure	Taft
Domenici	McGovern	Talmadge
Durkin	McIntyre	Weicker
Eagleton	Metcalf	Williams
Eastland	Mondale	Young
Ford	Montoya	
Hart, Philip A.	Morgan	

NOT VOTING—5

Baker	Curtis	Symington
Bayh	Johnston	

So the motion to lay on the table was rejected.

The PRESIDING OFFICER. The question occurs on agreeing to the amendment of the Senator from Maine.

The PRESIDING OFFICER. The Chair will not attempt to interpret the vote. The vote is on the Muskie amendment.

Mr. MUSKIE. To clarify the parliamentary situation, as I understand it, the Thurmond amendment, which is part of my proposal, will be a separate vote and not included in this vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana, (Mr. Bayh) and the Senator from Louisiana (Mr. Johnston) are necessarily absent.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker) and the Senator from Nebraska (Mr. Curtis) are necessarily absent.

The result was announced—yeas 58, nays 37, as follows:

[Rollcall Vote No. 12 Leg.]

YEAS—58

Abourezk	Burdick	Eastland
Allen	Byrd, Harry F., Jr.	Ford
Beall	Byrd, Robert C.	Hart, Philip A.
Bellmon	Cannon	Hatfield
Bentsen	Case	Hathaway
Biden	Dole	Hollings
Brooke	Durkin	Huddleston
Bumpers	Eagleton	Inouye

YEAS—Continued

Jackson	Mondale	Schweiker
Kennedy	Montoya	Scott, William L.
Laxalt	Moss	Sparkman
Leahy	Muskie	Stennis
Long	Nelson	Stevens
Magnuson	Packwood	Taft
Mansfield	Pastore	Talmadge
Mathias	Pearson	Weicker
McClellan	Pell	Williams
McGovern	Randolph	Young
McIntyre	Ribicoff	
Metcalf	Roth	

NAYS—37

Bartlett	Goldwater	Morgan
Brock	Gravel	Nunn
Buckley	Griffin	Percy
Chiles	Hansen	Proxmire
Church	Hart, Gary	Scott, Hugh
Clark	Hartke	Stafford
Cranston	Haskell	Stevenson
Culver	Helms	Stone
Domenici	Hruska	Thurmond
Fannin	Humphrey	Tower
Fong	Javits	Tunney
Garn	McClure	
Glenn	McGee	

NOT VOTING—5

Baker	Curtis	Symington
Bayh	Johnston	

So Mr. Muskie's amendment was agreed to.

Mr. CRANSTON. Mr. President, having recognized defeat when it has been sustained; having learned anew of the great strength of the Senator from Washington, the Senator from Maine, and their allies; and having suffered through my worst vote count in my time in the Senate; and in the interest of saving 15 minutes for the Senate at a very busy moment, I ask unanimous consent that I may withdraw my amendment so that we do not have to vote on it.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. THURMOND. Mr. President, I call up my unprinted amendment which is at the desk.

The PRESIDING OFFICER. Under the previous order, the Senator from South Carolina is recognized to call up an amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. Thurmond) proposes an amendment: On page 70, on line 7 of amendment No. 1187, as modified, strike "January 1, 1977" and insert in lieu thereof "July 1, 1977".

Mr. THURMOND. Mr. President, this amendment would simply extend the enforcement date of the Fisheries Management and Conservation Act until July 1, 1977. [Sec. 104]

Under the Stevens amendment passed last week the bill was changed to permit the effective date to occur on the date of enactment and the enforcement date was placed on January 1, 1977.

My amendment would not affect the date of enactment, but would simply extend the enforcement date 6 months to July 1, 1977.

The purpose of this extension is to permit the President to have another Law of the Sea Conference in order to hopefully achieve a Law of the Sea Treaty. It is envisioned that such a treaty would meet the serious problems addressed by the current bill, S. 961, so ably managed and sponsored by the distinguished senior Senator from Washington, Mr. Magnuson and the distinguished senior Senator from Alaska, Mr. Stevens.

At present, a Law of the Sea Conference is scheduled to take place this March. Great progress has been made to date, but in the event the matter cannot be fully resolved this March, my amendment would permit the President one final option next spring to achieve a treaty prior to enforcement of the provisions of this bill.

Mr. President, it should be pointed out that the two nations representing the largest fishing interests off the west coast, Japan and the Soviet Union, would hopefully be a party to such a treaty.

Thus, while my amendment does not interfere with the establishment of the commissions and machinery to put the fisheries bill into effect, it would allow a little extra time to achieve a treaty prior to enforcement.

We have seen in the cod war between Iceland and Great Britain the serious problems which can arise between nations when unilateral action is taken. Iceland is actually unable to enforce its fishing claims effectively because Great Britain has a stronger naval contingent. Iceland is threatening to leave NATO and is demanding help from the United States in this unfortunate situation.

My amendment would simply give us a little more time to achieve a Law of the Sea Treaty, the goal supported by all Members of this body prior to bringing enforcement provisions of this legislation into effect.

Mr. President, all this amendment does is to delay the enforcement date of this bill from January 1, 1977, until July 1, 1977. [Sec. 104] If this is done, it will give the opportunity for another sea conference.

I talked to the President last Thursday about this matter, and he has agreed that if this amendment is adopted and the bill passes Congress that way, he will sign the bill.

Mr. President, I urge favorable action on my amendment.

I have talked to the managers of the bill, and they are willing to accept it.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. MAGNUSON. The Senator from Alaska and I shall go to the conference and we accept this amendment.

The PRESIDING OFFICER. The Senator from Washington has stated that he will accept the amendment.

The question is on agreeing to the amendment. The yeas and nays have been ordered.

Mr. THURMOND. Mr. President, I think it is better to have the yeas and nays, because the President may not sign this bill unless this amendment is adopted. This will give our conferees strength in the House.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh) and the Senator from Louisiana (Mr. Johnston) are necessarily absent.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker) and the Senator from Nebraska (Mr. Curtis) are necessarily absent.

The result was announced—yeas 93, nays 2, as follows:

[Rollcall Vote No. 13 Leg.]

YEAS—93

Abourezk	Gravel	Morgan
Allen	Griffin	Moss
Bartlett	Hansen	Muskie
Beall	Hart, Gary	Nelson
Bellmon	Hart, Philip A.	Nunn
Bentsen	Hartke	Packwood
Biden	Haskell	Pastore
Brock	Hatfield	Pearson
Buckley	Hathaway	Pell
Bumpers	Helms	Percy
Burdick	Hollings	Proxmire
Byrd, Harry F., Jr.	Hruska	Randolph
Byrd, Robert C.	Huddleston	Ribicoff
Cannon	Humphrey	Roth
Case	Inouye	Schweiker
Chiles	Jackson	Scott, Hugh
Church	Javits	Scott, William L.
Clark	Laxalt	Sparkman
Cranston	Leahy	Stafford
Culver	Long	Stennis
Dole	Magnuson	Stevens
Domenici	Mansfield	Stevenson
Durkin	Mathias	Stone
Eagleton	McClellan	Taft
Eastland	McClure	Talmadge
Fannin	McGee	Thurmond
Fong	McGovern	Tower
Ford	McIntyre	Tunney
Garn	Metcalf	Weicker
Glenn	Mondale	Williams
Goldwater	Montoya	Young

NAYS—2

Brooke	Kennedy
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NOT VOTING—5

Baker	Curtis	Symington
Bayh	Johnston	

So Mr. Thurmond's amendment was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL STATEMENTS SUBMITTED ON S. 961

Mr. BENTSEN. Mr. President, last week I introduced an amendment to the pending bill, S. 961 which, in brief, would provide for the negotiation of fisheries agreements to insure access for our distant-water fishers to the fishing grounds of other nations. That amendment was approved by the Senate by a vote of 71 to 16. Although the amendment was thoroughly debated, I believe it is appropriate at this time to develop some legislative history for the guidance of those who will be charged with the administration of my amendment. Therefore, Mr. President, I would like to restate my understanding of specific provisions of the amendment and their application.

Paragraph one of the amendment stated:

If, after a reasonable period of time, the Secretary of State is unable to achieve an agreement affording vessels of the United States an appropriate portion of fish stocks found in areas subject to the fishery management jurisdiction of any foreign nation, in accordance with traditional fishing practices of such vessels and under conditions equal to those established under Section 102 of this Act, . . . [Sec. 205(a) (1)]

My understanding of the language which states "under conditions equal to those established under section 102 [Sec. 201] of this act" is that this language would require that other nations should utilize the same standards and guidelines when determining whether to permit our fishing vessels to fish within their fishery management jurisdiction as we would use to allow foreign fishing vessels within our fishery zone. [Sec. 201(e)] This is, the country in question, using the best scientific evidence available—including evidence provided by other nations—should determine the optimum yield of that particular stock of fish; then that country, utilizing the best evidence available including catch statistics, should determine the amount of the fish stock its vessels can harvest and the surplus—that is, the difference between optimum yield and the coastal nation's vessels harvesting capacity. That surplus must be made available for foreign fishing. [Sec. 201(d)]

In determining the allowance level of fishing for any particular nation with respect to any specific stock of fish, the coastal nation shall consider whether, and to what extent, the vessels of that particular nation have previously fished in such fishery, or for such stock. [Sec. 201(e) (1)]

Paragraph two of my amendment provides:

If any United States vessels, while fishing in waters beyond 12 nautical miles from the baseline from which a foreign nation's territorial sea is measured, is seized by such nation—(A) as a consequence of a claim of jurisdiction which is not recognized by the United States. [Sec. 205(a)]

My understanding of the language "a claim of jurisdiction which is not recognized by the United States" refers to instances where the na-

tion in question has claimed an extended jurisdiction—for whatever purpose and under whatever descriptive name—and within that extended jurisdiction does not afford U.S. fishing vessels an appropriate portion of the fish stocks under terms and guidelines consistent with those we apply such as I have just enumerated. In that event, the United States shall not recognize such claim of jurisdiction. Therefore, any seizure of a U.S. fishing vessel by that nation would fall within the provision I have just stated.

Mr. President, as you know there was some concern expressed in the early discussions on this amendment that this country may be in the midst of negotiating an agreement with a friendly nation and through mistake of fact or faculty judgment by that nation's navy, a U.S. fishing vessel should be seized beyond 12 miles, it could trigger this imports prohibition [Sec. 205] and damage the negotiations in progress. It is the intent of the amendment that paragraph four provision C of the amendment, which would permit the lifting of the prohibition on imports [Sec. 205(c)] upon release of the vessel and catch, specifically provides for such erroneous seizure. In other words, where it is clear that the nation in question has made an unintentional seizure under the claim of jurisdiction and immediately releases the vessel, the import prohibition would be immediately lifted—or more than likely never come into being.

I hope that these remarks will provide clearer guidelines for those charged with the ultimate administrative responsibility for this act.

Mr. BUCKLEY. Mr. President, I fear this is the sort of bill where I will be unhappy either way to vote. Disparate interests are involved, and there is merit to the arguments advanced on both sides.

I was a sponsor of the previous bill to declare that the United States would assert full responsibility for the protection of coastal fisheries pending the negotiation and enactment of a Law of the Sea Treaty. [Sec. 401] At the time, the massive incursion of foreign fishing fleets off the Atlantic coast resulted in the taking of such huge catches that both our fishing stocks and the livelihood of American fishermen were being endangered. I felt then, as I do now, that coastal States have a moral obligation to protect the species living in adjacent waters against reckless exploitation. We also have the right to keep our own fishermen from being crowded out of their traditional fishing grounds. Under the circumstances, then existing, it would have been irresponsible for us not to assert the responsibilities of a trustee for the protection of our basic biological resources and to regulate fishing, especially in what then appeared to be the highly unlikely prospect that the deliberations on a Law of the Sea Treaty would ever come to a timely conclusion.

Subsequently, and I believe as a specific result of the unilateral action that the Congress demonstrated it was willing to take, we have seen once moribund multinational commissions designed to regulate fishing suddenly spring to life. By way of specific example, the International Commission for Northwestern Atlantic Fisheries has in the recent past taken full cognizance of the need to restore badly depleted fishing stocks, has ruled some species totally off limits, has mandated reduc-

tions in catches that if observed will serve over a period of time to restore the fish populations to optimal levels, and has agreed to succeeding reductions in allocations to the Soviet Union and Eastern European fishing fleets with concurrent increases in allocations to American fishermen.

Thus, on the face of it, it appears that the immediate dangers that sparked the legislation to establish a 200-mile zone are now being met through multinational action. This in turn lends new force to the arguments that the immediate dangers to the biota having been averted, we should not risk jeopardizing negotiations at the forthcoming conferences for the Law of the Sea or give other nations an excuse for asserting on a permanent basis unilateral rights far in excess of those that we would be asserting on a temporary basis. I find these arguments appealing, but on balance and with some hesitation, I will be voting in support of the bill for the following reasons:

First. Although ICNAF has charted a desirable course, as far as Atlantic fishing is concerned, it is less certain that in other areas important to American fishermen equivalent progress has been made. Furthermore, there is the problem of enforcement. While the Coast Guard is permitted to spot check catches, when it finds violations of ICNAF limitations it can do no more than report them to the nation in question. This leaves a very great deal to be desired, and this shortcoming no doubt explains the number of incidents in which foreign trawlers violate our 12-mile limit or harass American fishermen. The shortcomings of the various multinational arrangements are detailed by Donald L. McKennan, former U.S. Ambassador for Fisheries and currently Director of the Institute for Marine Studies, in his letter of December 4, 1975, to the chairman of the Commerce Committee.

Second. Because the legislation before us will be, by its own terms, superseded by the terms of a Law of the Sea Treaty, the fact that the United States is acting unilaterally in order to assure the protection of coastal fisheries ought not, in a reasonable world, justify unilateral action on the part of others designed to assert territorial jurisdiction on a permanent basis beyond the outer limits traditionally accepted by the community of nations. I am, however, well aware that nations, like individuals, do not always act on a rational basis, and I find myself, quite frankly, very sympathetic with some of the fears expressed by the State Department. Nor do I underestimate the importance of the need to preserve undiminished the traditional rights of passage of our naval and merchant vessels.

Mr. President, I have learned the hard way that an apparent change of position dictated by changed circumstances is the most difficult thing in the world to explain. The reasons why one might change his view as to the prudence of a particular piece of legislation at a particular time, however valid, never catch up with the perception that the person in question has abandoned his original objectives. As my objectives and concerns are unchanged, I do not want my vote to in effect misinform the public as to my commitment to the protection of our coastal resources.

I believe the bill is inherently reasonable and appropriate, and the possible diplomatic reverberations inherently unreasonable and in-

appropriate. If on the other hand, it should be the judgment of the President that the action taken by the Congress would in fact jeopardize vital American objectives in negotiating a Law of the Sea, and if I am at the same time satisfied that a delay will not jeopardize our fishing stocks, then I am prepared to reconsider the matter and vote to sustain a veto.

Mr. HATFIELD. Mr. President, I will cast my vote in favor of this bill, and this year I do so without reluctance.

It is no secret to those of us who live on the Oregon coast that the rights of American fishermen have been ignored while foreign fleets have increased their catches and depleted our fisheries resource. Congressional initiatives to improve the management and conservation of fisheries resources have been thwarted time and time again. For years, the Law of the Sea Conference has dragged on with no successful resolution of the intricate issues involved, and for all those years our fish stocks have suffered from poor management and foreign catches.

This bill will protect our resources until such time as an effective treaty can be negotiated. I hope one is, and I hope passage of this legislation will expedite negotiations at the conference, scheduled to meet in March and April. But we cannot wait forever for an international treaty, and that is why I vote for this bill today. We have heard arguments in the past few days that if we will delay action on this legislation for just a while longer, a treaty will be negotiated at the conference that will resolve the fisheries and other issues. Not only have we heard that argument before, but the "just a while" is longer than it may seem. Not only is there absolutely no certainty that a treaty can be drafted at the next conference session, there is also the matter of ratification, which will take some time. Even if all the issues could be resolved, including the very difficult problems of deep seabed mining, the most optimistic observers believe it would take 3 years before an effective treaty could be ratified and in force. More pessimistic estimates range up to 7 years.

Mr. President, we cannot wait that long. The following fish stocks have already been overfished: Yellowfin sole, Alaska pollock, Pacific Ocean perch, Pacific halibut, Atlantic halibut, Bering Sea herring, Bering Sea shrimp, haddock, yellowtail flounder, California sardine, Pacific mackerel, Atlantic sea scallop, northwest Atlantic shrimp, and Atlantic bluefin tuna. It has been contended in this body that this pillaging of our seas, which everyone recognizes as devastating, can be handled best through bilateral agreements. Yet, our bilateral agreements with Japan and the Soviet Union, while reducing the total catch, still have set the quota above the level of maximum sustainable yield.

The Cranston-Griffin amendment, Mr. President, would not have provided relief in this situation. First, since Japan and the Soviet Union are not signatories to the 1958 Geneva Convention, conservation measures implemented under article 7 of that convention could have no tangible effect upon the fishing operations of those nations. Second, article 7 allows only for nondiscriminatory conservation measures outside of our territorial waters, which only extend for 3 miles off our coasts. Thus, any article 7 arrangement would mean that we would

lose our exclusive, discriminatory fishing rights between 3 miles and 12 miles.

I am not insensitive to the arguments of those who contend that passage of this legislation will damage international relations. I do not believe, however, that the repercussions of passage will be as serious as we are led to believe. Certainly if the State Department and our representatives at Law of the Sea correctly represent the purpose and effect of this bill, then I do not envision the dissolution of the conference itself.

Therefore, Mr. President, I gladly cast my vote in favor of passing S. 961, and urge my colleagues to do likewise.

MR. WEICKER. Mr. President, on December 11, 1974, the Senate first passed a marine fisheries protection bill. Since that time, the need for this legislation grows as the reckless harvesting of our valuable fishery resources continues unabated off our Nation's coastline.

Present international fishing agreements and current negotiations between the United States and other countries have contributed to ineffective regulation and control of foreign fishing efforts.

The administration espouses empty promises based on wishful thinking that all will be well with our fish conservation problems if we only wait until the conclusion of the next session of the Law of the Sea Conference. Although I fully support the efforts of the Conference, I suspect that if we wait any longer for the expected final treaty, our already sorely depleted fishery stocks will be exhausted to the brink of extinction.

The purposes of the bill to protect and conserve our fishery resources are two-fold. First, it would extend a 200-mile "fishery conservation zone" from the Nation's coastline. [Sec. 101] Within this zone the United States would have management jurisdiction over anadromous species that spawn in U.S. rivers and streams [Sees. 2(b)(1)(B); 102(2)] and over the U.S. Continental Shelf. [Sees. 2(b)(1)(B); 102(3)] Second, S. 961 sets out to establish and enforce a national fishery management program. [Sees. 2(b)(4); 102; 301; 302; 303; 304; 305]

By establishing management authority at 200 miles, the United States will be able to control the massive foreign fishing effort that now severely depresses a vital protein-rich food source for the whole world.

Expanding the fishing limit to 200 miles [Sec. 101] would help revitalize the American fishing industry [Sec. 2], especially in Connecticut and New England. We only have to look at the foreign fishing efforts along the southern New England coastline, that includes Connecticut, to see how they are dangerously overfishing our valuable fish resources to the detriment of the U.S. fishing industry.

Since foreign fleets began their massive operations off southern New England in 1960, the catch of American fishermen has dropped from 100 percent to an alarming 11.8 percent. By 1965, the Soviet Union was scouring over half a million tons of fish per year from New England's rich Georges Bank area—far exceeding the American catch. By 1970, the total yearly catch by the entire foreign fleet had grown to more than a million tons.

It is expected that this bill establishing a 200-mile zone [Sec. 101] and a fishery management and conservation mechanism [Sec. 102] could result in a threefold domestic fish catch from the northwest Atlantic area. The resulting increase could generate revenues totalling \$750 million for the New England area alone. Of that amount, \$296 million would be personal income. This is income that would create new jobs in New England for shipbuilders, fishermen, processors, suppliers and retailers.

It must be emphasized that this measure is interim in nature. The bill will provide an immediate remedy for a dangerous situation until an agreement is codified by the Law of the Sea Conference. [Sec. 401]

I see no other alternative but to take this emergency action to manage our fishing stocks within the 200-mile conservation limit. I urge my colleagues to support S. 961 as the quickest and best method to halt foreign rape of our offshore resources so that American waters will not become another Dead Sea area.

Mr. BEALL. Mr. President, I wish to join my distinguished colleagues from the States of Washington and Alaska in support of S. 961, the Magnuson Fisheries Management and Conservation Act of 1976. This much needed piece of legislation would enable our Nation to protect and conserve its enormously rich fishery resources.

While my colleagues are undoubtedly familiar with much of the statistical information concerning the plight of our domestic fishing industry and the depleted state of many of our fishery resources, it is instructive to briefly review this data so that we may fully appreciate the need for S. 961 to be enacted into law.

World fish landings have tripled since 1938, while U.S. fish landings rose only slightly. Similarly, while the volume of fish harvested off the U.S. coast has increased dramatically from a level of approximately 4.4 billion pounds in 1948 to 11.6 billion pounds in 1973, landings by U.S. fishermen have remained virtually constant throughout that 25-year period. At the same time, the fish catch by foreign vessels in U.S. coastal waters rose astronomically. By 1973, this foreign harvest amounted to 7.9 billion pounds and represented 70 percent of the commercial fish harvest in U.S. coastal waters.

Since 1938, consumption of fish products within the United States more than doubled to 7 billion pounds in 1973. Unfortunately, most of this increase has been supplied by imports. Currently, the United States imports over 60 percent of its fish product needs; in 1974, the U.S. balance-of-trade deficit in fishery products alone amounted to nearly \$1.5 billion. It has been estimated that if fishery product imports, much of which I might add are harvested by foreign fishing vessels in U.S. coastal waters, were replaced by domestic production, the U.S. economy would be bolstered by nearly \$3 billion and 200,000 man-years in U.S. employment would result. At a time when we are striving to increase domestic employment, reduce our balance-of-trade deficit, and strengthen the U.S. economy, such considerations are in themselves rather significant benefits that would result from passage of S. 961.

Recent technological advances, coupled with the high priority many foreign nations have placed on fishery operations, have enabled foreign

fleets to literally vacuum the ocean clean of its living resources. As the data above suggests, much of this new fishing activity has been centered in waters adjacent to our coasts. The National Marine Fisheries Service has identified at least 14 economically important fish species located in U.S. coastal waters that have been overfished. The depletion of such resources has largely been a result of the virtually unrestrained activities of massive scale foreign fleets that often harvest enormous quantities of U.S. coastal fishery resources just beyond the existing U.S. 12-mile fisheries jurisdiction.

Mr. President, we can no longer wait before we act to conserve our fishery resources. It has been estimated that upwards of 20 percent of all the fish resources of the world are located within 200 miles of our coastline. In a world that desperately needs to increase its food production to adequately feed its ever growing population, we can no longer afford to abuse the living resources of the seas. The fish resources adjacent to our coasts represent a valuable, and potentially renewable resource that I feel must be protected and conserved. S. 961 provides a vehicle to carry out these objectives.

Opponents of S. 961 maintain that passage of this bill would adversely affect progress at the Third U.N. Law of the Sea Conference. As my colleagues are well aware, I strongly support U.S. efforts to achieve a viable and effective international treaty dealing with all segments of the law of the sea. I am concerned however that any acceptable agreement resulting from the LOS conference, which involves upwards of 150 nations addressing over 100 separate issues, may not be forthcoming for several additional years. Further, the process of ratifying such an agreement may consume an additional lengthy time span. In this regard, it should be noted that the four separate 1958 Geneva LOS Conventions required 4 to 6 years before they became effective.

Clearly, Mr. President, this country cannot delay any longer before it acts to conserve and protect its fishery resources. S. 961 would provide, on an interim basis pending further implementation of an acceptable LOS treaty [Sec. 401], the means by which this country could conserve, manage, and protect its fishery resources for present and future generations. I strongly urge my colleagues to support this critically needed legislation.

OUR AMERICAN HERITAGE

Mr. HOLLINGS. Mr. President, while more than 140 heirs to the world's "common heritage" are fighting over the spoils of deep sea resources, the people of the United States—heirs to some of the richest fisheries resources in the world—find their own heritage being rapidly depleted by foreign fishing fleets.

In 1960, for example, the United States harvested about 477,000 tons of fish off the New England coast, and the foreign catch was almost nonexistent. Today, foreign fleets are harvesting some 420,000 tons in that area, and our fishermen have to be satisfied with 230,000 tons, or 35 percent of the total area catch. The foreign onslaught began in the early 1960's on a relatively small scale, but it expanded so rapidly that species after species in the Atlantic as well as the Pacific, have either become seriously overfished, or have reached a level of heavy exploitation.

In the area from 0 to 12 miles from the coast, the area where the United States has sole jurisdiction over fisheries, U.S. fishermen caught 3.9 billion pounds last year. In the area from 12 to 200 nautical miles, however, foreign fishermen took 6.4 out of a total of 7 billion pounds. The foreign fishing would not be all that bad if their fleets did not interfere with our efforts, and if total effort had been kept at the maximum sustainable yield of the resources. But, unfortunately, the foreign fishing effort in the rich area between 12 and 200 nautical miles has been the primary cause of the serious depletion of many of our coastal species.

In the Northeast Atlantic, yellowtail flounder has been seriously overfished, and the haddock has been fished almost to extinction. Cod and halibut are also substantially overfished, and herring and mackerel are being fully exploited. Only in recent years, has the Department of State negotiated total and species quotas for the fisheries off the coasts of the Northeastern States—ICNAF, and in view of serious overfishing, quotas have been reduced significantly. The Department of State tells us that we are not in a hurry to establish extended national jurisdiction over coastal fisheries because the multilateral agreement—ICNAF—and bilateral agreements with a number of countries—U.S.S.R., Poland, Romania, and others—cover almost all foreign fishing, and those agreements in fact do what extended national jurisdiction is supposed to do.

However, in spite of the lower ICNAF quotas—which were agreed upon to a large extent under the threat of unilateral action by the United States—overfishing by foreign fleets in the Northeast is continuing at an embarrassing rate. [Sec. 2(a)(3)] Take, for example, the current situation in the mackerel fisheries in the Northeast Atlantic. In the three winter months from January through March, when the U.S. coastal mackerel fishery is at its teaming peak, a foreign armada of up to 300 vessels can be observed fishing off the East Coast. Last year the Soviet Union was allocated a mackerel quota of 100,000 metric tons. Mr. Charles Philbrook, an enforcement officer at the National Marine Fisheries Service Center in Gloucester, Mass., established that the Soviet fleet had overfished its 1975 mackerel quota by about 70,000 tons.

The Russians, however, have admitted that they may have over-caught their mackerel quota by as much as 100,000 tons, or 100 percent, according to Mr. Philbrook. Ironically, the Soviets, who are trying to get U.S. companies to supply them with the latest American computers, claim that their overfishing was caused by "computer error". We are well aware that their computers are not as good as ours, but an "error" of 100 percent is a little bit too much to believe. If their computers guiding intercontinental ballistic missiles are as inaccurate as the ones they use to add up their fisheries catch, we have little to worry about in this country.

In the Pacific, where overfishing off the U.S. coast was not as much a problem until recent years, the situation is getting desperately out of hand. According to Lee Alverson, Director of the Northwest Fisheries Center of the National Marine Fisheries Service, and generally recognized as the top U.S. expert on West Coast fisheries, "every stock of fish in the North Pacific range is overfished." Take, for example,

Pacific perch. In the early 1960's, when the first Soviet and Japanese travelers appeared off the Northwest, U.S. fishermen were catching 500,000 metric tons of perch a year. The Soviet and Japanese fishing armada entered the scene in a wholesale way, practically wiping out the stocks before the United States could even negotiate a quota limit with them. By 1975, the total catch of perch had dropped to 67,000 tons, and the share of the total catch caught by U.S. fishermen off Oregon and Washington had dropped to 1,000 tons.

It will take up to 10 years to restore the damage caused primarily by foreign fishing efforts, that is, if we totally suspend all efforts immediately. If we reduce total catch quotas to 40,000 tons, it will take up to 15 years before the stocks will rebuild. Other stocks are undergoing a similar, equally dismal, fate. The Pacific halibut, for more than 50 years the livelihood of a great many fishermen in the Northwest, has been seriously reduced by foreign fishing fleets. Although foreigners are not fishing for halibut *per se*, they catch large volumes of this species while harvesting Pacific perch and pollack. Consequently, the halibut harvest has declined from 70 million pounds in 1965 to 21 million in 1974. Pacific hake, almost exclusively harvested by foreign fleets, has also been seriously overfished.

The Department of State has worked out one of its frequently praised bilateral agreements with foreign nations fishing off the northwest coasts. They settled for a hake quota with the Soviet Union alone of 150,000 tons. According to Dr. Alverson, the maximum sustainable yield of the species is only 50,000 tons a year. Even if this year's hake quota were set at one-half of last year's catch—being 100,000 tons—it will take between 3 and 5 years to rebuild the stocks, according to Dr. Alverson. Sable fish or black cod is yet another on the list of the overfished species. And again, if this year's quota would be set at one-half of last year's catch of 41,000 tons, it will still take 8 to 12 years before the stocks are rebuilt. In view of the desperate situation in our Northwest fisheries, Dr. Alverson, who cannot be accused of being a narrow nationalist says:

I am in favor of extended jurisdiction (to 200 miles). I would like to see it come about as a result of the Law of the Sea Conference, but that will take a considerable amount of time, which we haven't got.

The Department of State tells us that we have bilateral agreements covering the important species, and herald those agreements as great accomplishments of international diplomacy obtained after months and months of hard bargaining. The scientists say that quotas were set much too high, and that our scientific investigations indicate that stocks are at a much lower level than Soviet scientists maintain. Moreover, all restrictions are on a self-regulating basis. Our scientists report what they consider violations of the agreements to the Department of State in Washington. Washington, in turn, does not take any action. In the name of *détente* and international cooperation our own fishermen are sacrificed to foreign interests.

Let us finally take a look at Alaska, our northernmost State, with by far the longest coastline, and coastal waters of unbelievable biological productivity. Even Alaska's fisheries are suffering from serious overfishing. Both Alaskan pollack and yellowfin sole have been seriously overfished by foreign fleets, and the Pandalid shrimp has all but disappeared from the Bering Sea. Even if the pollack catch is reduced by some 40 percent over last year's catch, it will take about 5 to 7 years

to rebuild. The flounder harvest which is down 80 percent from peak years to 100,000 tons in 1975 in the Bering Sea, is also in need of drastic regulations. It will take from 10 to 20 years for the flounder stocks to rebuild if present levels of fishing are continued any longer. Even salmon, which spawns in the clean rivers of Alaska, are being fished heavily by foreign fleets in certain locations. Japanese fishermen caught more than twice as many salmon last year in the North Pacific than American fishermen. In summary, the State which has as its motto "North to the Future," will not have as much a future in fisheries, if we don't take measures now to protect Alaskan fisheries from further depletion.

The Department of State has been opposed to unilateral action which would extend jurisdiction over coastal fisheries, primarily for two reasons: First, bilateral and multilateral agreements concluded in recent years in fact accomplish the same results as extended jurisdiction for fisheries purposes, and second, if the United States were to extend its national jurisdiction over fisheries, many coastal States would follow, and the future of a Law of the Sea agreement would be impaired. We have already shown the clear fallacy of their first premise. Bilateral and multilateral fisheries agreements are not working. Stocks are still heavily overfished, and several stocks continue to be subject to serious overfishing by foreign fleets.

Because of the intense exploitation of valuable fish stocks within 200 miles of the U.S. coast, and of the endangered state of many stocks, it is vital that the United States implement a management regime that will conserve the stocks.

The States presently manage coastal fisheries within 3 nautical miles—9 nautical miles or 3 marine leagues off of the gulf coast of Florida and Texas—which is the extent of their territorial seas. Although the Federal Government has paramount jurisdiction offshore from 3 to 12 nautical miles—the 9-mile contiguous zone, there are currently no Federal fisheries laws in effect.

The U.S. 200-mile fisheries jurisdiction [Sec. 101] in conjunction with a management regime [Sec. 102] would permit fish stocks to be regulated on a broad regional basis—taking into account the natural migration of fishes through artificial jurisdictional boundaries—cooperatively by the States and the Federal Government through the creation of regional compacts. [Sec. 302]

By effective control of foreign and domestic users of fish stocks, the United States will be able to apply sound management procedures involving collection of data, assessment of stocks, the determination of realistic maximum sustained yields, and the allocation of such stocks among the several users. [Sec. 301]

Effective management and conservation of fish stocks will result in greater economic stability within the fishing industry. As a consequence of the increased stability within the fishing industry, investment capital will be attracted, enabling the industry to sustain itself in a healthy condition. [Sec. 2]

It has been suggested that 200-mile fisheries jurisdiction by the United States will result in discrimination against U.S. fishermen by the governments of other countries. Shrimp and tuna are the only species of major economic significance which are caught by U.S. fishermen off of foreign shores. Only 15 percent of the total U.S. shrimp catch comes from foreign waters, and the United States already pays

for the right to catch approximately one-half—7 percent—of that amount off of Brazil, which already has a 200-mile limit. The other 8 percent is caught off of Mexico, where congress has just passed 200-mile legislation.

Tuna are regulated by international agreements. The current 200-mile bill under consideration by the U.S. Senate exempts tuna from U.S. regulation in deference to their current effective regulation by international management regimes. [Secs. 2(b)(2); 103]

The bill under consideration states that if the upcoming Law of the Sea negotiations are successful in providing for protection of coastal fisheries by treaty, those sections of the bill which are inconsistent with the treaty will be abrogated by the treaty. [Sec. 401] Let us now look at what the Department of State has been telling us for years about the Law of the Sea Conference.

The initial attempt by Ambassador Pardo of Malta, a man who deserves great credit for his service to the world's ocean community, was to prevent a disorderly race for deep seabed resources by the technologically powerful of this world. A study committee was established by the United Nations in 1967, but its task was soon widened to include a search for the views of member states on the issue of convening a new Law of the Sea Conference. In 1970, the General Assembly decided to convene a Conference on the Law of the Sea in 1973, which would deal not only with an international solution to deep seabed development, but a whole range of other issues, including the regime on the high seas, territorial sea and contiguous zone, the Continental Shelf, fishing conservation, pollution prevention and the promotion of scientific research. A Seabed Committee of 42—later 86—members was formed and instructed by the General Assembly to hold two sessions in order to prepare draft articles for a new Law of the Sea Conference.

Ever since then the world community has been discussing the myriad of ocean problems to be solved in New York, Geneva, and Caracas, Venezuela. As far as fisheries jurisdiction is concerned, most coastal states are in favor of national jurisdiction out to 200 miles. However, many states want a great deal more than just jurisdiction of deep seabed resources. At the very beginning of the conference it was decided that the conference would not agree on separate conventions dealing with particular issues, such as the limits of the territorial sea or the resources zone, but would settle only for a "package deal" comprising a compromise on the many ocean problems by the almost 150 participants. This has so far proven to be a total failure.

At the Caracas session, in June 1974, it was decided that on substantive issues, decisions can only be taken when two-thirds of the states are present and voting, provided the affirmative votes constitute at least a simple majority of the participating states. That is to say, if 150 states participate, a minimum of 100 must be in the hall for action to be taken; however, two-thirds of 100 votes are insufficient because at least 76 affirmative votes—simple majority of the 150 participants—are required. If every nation shows up it would take 100 yes votes to carry a substantive motion. Under yet another rule, the conference agreed to defer voting until all substantive efforts at compromise have been used, and voting is to take place when a large majority of states believe that further negotiations will be fruitless.

How on earth can one expect to get 150 nations representing as many different national interests, completely opposing ideologies, representing the very rich and the very poor, the nations with very significant and diverse maritime interests, and those with only coastal resources interests, and so on, to agree on such a myriad of issues in normal times? And these are not normal times.

The world's living marine resources are under severe stress of over-fishing by distant water fleets; oil and natural gas, said to be the most important seabed resources, are in short supply in many parts of the world; significant differences exist over ancient maritime rights of "innocent passage" and freedom to conduct scientific research at sea. But, on top of all this, the developing raw-material supplying nations of this world want a complete change of the world economic order. Issues at stake are so important, and difference in positions so diverse, that no early solution can be expected from the nations gathering in March in New York to further discuss the future law of the sea.

But, every year, the eternal optimists representing our State Department comes up to Capitol Hill to testify on the "progress" made in Caracas, or Geneva, or some other exotic place where professional delegates meet and eat. This meeting and eating has been going on now for 9 years, making next year an appropriate time for a decennial celebration. Our delegation to the "meet and eat society" at whatever place it may be will have something to look forward to after this year's Bicentennial at home. But, we are quite sure that if we were to wait while they are looking for the last French restaurant in town, our fishermen in Alaska, the Northwest Pacific and the Atlantic will have little cause for celebration. Overfishing will continue to cause more and more damage to stocks, and the time to rebuild depleted stocks will continue to go up. [Sec. 2(a)] This means a serious loss to our fishermen and higher prices for fish to the consumer. The simple law of supply and demand tells us that when less fish is available, prices will go up.

Every year the State Department has been telling us that next year is really going to be the last year for negotiations, and prospects seem to look better at each concluding session. High level independent observers of the Law of Sea Conference have told us recently that it will take at least until 1978 at the earliest that a "package deal" agreement on the issues can be achieved. It is very well possible, they maintain, that even by that time no agreement can be reached, and nations may instead opt for a series of conventions of manageable proportions. The State Department may be able to wait that long. Their bureaucrats will still be around in 1978 and after. Unfortunately, much of our fisheries and with it the livelihood of a great many Americans, will by then have disappeared or be damaged almost beyond repair. [Sec. 2(a)] We believe that this Bicentennial Year is not only the best year to think about our national heritage, but to protect whatever is left of it.

Mr. DURKIN. Mr. President, I want to take this opportunity to commend my colleagues, particularly the chairman of the Commerce Committee (Mr. Magnuson), who has fought so hard for so many years for passage of S. 961, the Fisheries Management Act, with its provisions for a 200-mile fish conservation zone. [Sec. 101]

I am now hopeful that by next spring, New England fishermen will no longer suffer the insult of standing by as Soviet and Japanese trawlers vacuum American livelihoods off the ocean floor.

And I am now hopeful that long before next spring, we will see affirmative action toward meaningful conservation of our national fishing resources, so that fishermen of all countries may continue to harvest the fruits of the sea for centuries to come. I challenge the administration, which has opposed this bill, to move forward upon passage with aggressive and enthusiastic implementation of the congressional intent.

The Magnuson Fisheries Management Act did not come easy. I commend Senator Magnuson for his staunch efforts in support of the ultimate passage of a meaningful bill. Legitimate concern has been expressed by many Senators, and necessary compromises have been made to tailor the bill to the needs of fishermen along the west and gulf coasts. I am gratified that other amendments designed to seriously weaken provisions of law have been turned aside.

Those nations participating in the current Law of the Sea Conference must now know that time is of the essence in establishing worldwide conservation measures. There will be no trade war as a result of our actions today. Any responsible nation must see it for exactly what it is—a positive first step to protect vital self-interests and the existence of entire species of fish.

I welcome the opportunity to incorporate our action today into a large international agreement at some time in the near future.

Mr. STEVENSON. Mr. President, the debate in this body has shown that we are all deeply concerned over the problem of overfishing by foreign fleets off the coasts of our country. Modern fishing methods employed by the Soviet Union, Poland, and other countries have not only endangered the livelihood of American fishermen but the future of certain species upon which many depend for protein. [Sec. 2(a)] Something must be done. The vacuum cleaning of the American Continental Shelf by foreign factory-ship fleets cannot continue unregulated. The bill introduced by my distinguished colleague from Washington is in most respects an admirable effort to bring this alarming situation under control. I am fully in accord with the conservation measures called for in this legislation which will prevent dangerous depletion of stocks from overfishing, not only by foreigners but by our own fleets. I have supported such legislation in the past.

I cannot, however, now support a bill which includes a unilateral U.S. assertion of 200-mile fisheries jurisdiction for the following reasons:

First, it is not clear to me that from an economic point of view this bill will yield the greatest good to the greatest number of our citizens. Benefits to New England fishermen may be more than offset by injury to tuna, shrimp, and other American fishing conducted within 200 miles of other nations. We will scarcely be in a position to protect the interests of these American fishermen if we insist upon asserting 200-mile jurisdiction of our own. [Sec. 101]

Second, the successes of the International Commission for Northwest Atlantic Fisheries in September and the bilateral agreements we have concluded with the Soviet Union, Poland and Japan have materially reduced the size of the allowable catch of many important species and

have greatly increased the United States share of the total catch. With the hasty passage of this legislation we are not giving these agreements even the minimum time in which to assess the effectiveness which is claimed for them.

Third, and to me most important, passage of this legislation in its present form would be in flagrant disregard of solemn international commitments entered into by the United States and ratified by this body. This issue goes to the heart of much that concerns me about the role we play in the world. What do we stand for? Are we committed to the rule of law? Or do we look upon treaties, conventions, and other international undertakings as mere scraps of paper when they do not suit our present interests? This bill would violate the 1958 Geneva Convention on the High Seas, the 1958 Geneva Convention on Fishing and Conservation of the Living Resource of the High Seas, and the Northwest Atlantic Fisheries Convention, to which we are a party. I know of not one respected legal authority who would claim that a unilateral extension of a 200-mile fisheries zone would be in accordance with international law.

We are living in an imperfect world in which the economic and political interests of many nations have always been and will always be in conflict. We have prided ourselves in our commitment to the principle that these conflicts should be resolved by negotiation and by the rule of law, not by force. When it comes to the Law of the Sea, we have a duty to lead by example. We are a great maritime power. Lesser powers, I understand as many as 15, have asserted 200-mile fisheries jurisdiction, but none has had the impact which a country like ours would have. Let us not behave like some third-rate power engaged in the pursuit of narrow national interest. Let us show that we are worthy of the mantle of world leadership by devoting our efforts to the establishment of a Law of the Sea under which all maritime nations may live in harmony with one another.

Mr. President, I repeat that I am in favor of the conservation aspects of this bill, but I cannot vote for it if it asserts unilateral jurisdiction in violation of our international commitments.

The Senate continued with the consideration of the bill (S. 961) to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes. [Sec. 2]

THE PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the committee amendment in the nature of a substitute, as amended.

The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

THE PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be read a third time, and was read a third time.

THE PRESIDING OFFICER. Under the previous order, the Committee on Commerce, is discharged from the further consideration of H.R. 200, and the Senate will proceed to its immediate consideration. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill H.R. 200, to provide for the conservation and management of the fisheries, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken, and the text of S. 961, as amended by the Senate, is substituted therefor.

The question is on the engrossment of the amendment and third reading of the bill.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh) is necessarily absent.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker) and the Senator from Nebraska (Mr. Curtis) are necessarily absent.

The result was announced—yeas 77, nays 19, as follows:

[Rollcall Vote No. 14 Leg.]

YEAS—77

Abourezk	Hart, Philip A.	Morgan
Allen	Hartke	Moss
Beall	Haskell	Muskie
Bellmon	Hatfield	Nelson
Bentsen	Hathaway	Nunn
Biden	Helms	Packwood
Brock	Hollings	Pastore
Brooke	Huddleston	Pearson
Buckley	Humphrey	Pell
Bumpers	Inouye	Percy
Burdick	Jackson	Randolph
Byrd, Harry F., Jr.	Johnston	Ribicoff
Byrd, Robert C.	Kennedy	Roth
Cannon	Laxalt	Schweiker
Case	Leahy	Scott, William L.
Church	Long	Sparkman
Dole	Magnuson	Stafford
Domenici	Mansfield	Stennis
Durkin	Mathias	Stevens
Eagleton	McClellan	Taft
Eastland	McGee	Talmadge
Fannin	McGovern	Thurmond
Ford	McIntyre	Weicker
Garn	Metcalf	Williams
Goldwater	Mondale	Young
Hansen	Montoya	

NAYS—19

Bartlett	Gravel	Scott, Hugh
Chiles	Griffin	Stevenson
Clark	Hart, Gary	Stone
Cranston	Hruska	Tower
Culver	Javits	Tunney
Fong	McClure	
Glenn	Proxmire	

NOT VOTING—4

Baker	Curtis	Symington
Bayh		

So the bill (H.R. 200), as amended, was passed as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Magnuson Fisheries Management and Conservation Act".

DECLARATION OF POLICY

[Sec. 2]

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) The coastal species of fish which inhabit the waters off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf, and the anadromous species which spawn in United States rivers and estuaries, constitute a valuable and renewable natural resource. This resource contributes to the food supply and economy of the Nation as well as to health and recreation.

(2) As a consequence of increased fishing pressure and because of the absence of adequate fishing management practices and controls, (A) certain stocks of such fish have been overfished to the point where their survival is threatened, and (B) other such stocks have been so substantially reduced in number that they could become similarly threatened.

(3) International agreements have not always prevented or terminated overfishing, nor have they halted the unnecessary reduction of this valuable resource. There is danger that further overfishing will occur before an effective international agreement on fishery management and jurisdiction can be negotiated, signed, ratified, and implemented.

(4) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade.

(5) Management of fisheries as common property resources has led to the use of excessive amounts of capital and labor in many fisheries. As a result, the profits earned by individual fishermen are low, potential economic benefits to the Nation are lost, and the fisheries are depressed industries.

(6) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be restored and maintained so as to provide optimum yields.

(7) A national program for management and conservation of the fishery resources subject to the jurisdiction of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, and to realize the full potential of the Nation's fishery resources.

(8) A national program for the development of a United States fishery for bottomfish off Alaska and our other States is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.

(b) PURPOSES.—It is therefore declared to be the purpose of the Congress in this Act—

(1) to take immediate action to protect and conserve the fishery resources of the Nation by declaring management and conservation authority over such resources in a 200 nautical mile zone off the coasts of the United States;

(2) to extend the exclusive management jurisdiction of the United States over the fishery resources of the Continental Shelf and over anadromous species of fish which spawn in the rivers and estuaries of the United States; and

(3) to establish a national fishery management program to prevent overfishing, to rebuild overfished stocks, to insure conservation, to realize the full potential of the Nation's fishery resources, and to encourage the development of a domestic capability to harvest and process fishery resources which are currently underutilized or unutilized by United States fishermen, particularly the bottom fishery of the North Pacific and Bering Sea and other bottom fishery potential off our coasts.

(c) POLICY.—It is further declared to be the policy of the Congress in this Act—

(1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the management and conservation of fishery resources, as provided in this Act;

(2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, other than that necessary for the management and conservation of fishery resources, as provided in this Act;

(3) to support and encourage international agreements for the management of highly migratory species of fish and to manage such species when found within the 200-mile zone on the basis of regulations adopted pursuant to such agreements; and

(4) to assure that the national fishery management program (A) utilizes, and is based upon, the best scientific information available; (B) involves, and is responsive to the needs of, interested and affected citizens; (C) promotes efficiency; (D) minimizes the costs of research, administration, management, and enforcement; and (E) is workable and effective.

DEFINITIONS

[Sec. 3]

SEC. 3. As used in this Act, unless the context otherwise requires, the term—

(1) "anadromous species" means those species of fish which spawn in fresh and estuarine waters of the United States and which migrate to ocean waters;

(2) "Board" means the Fishery Management Review Board established under section 204 of this Act;

(3) "coastal species" means all species of fish, other than highly migratory and anadromous species which inhabit the waters off the coasts of the United States;

(4) "conservation" refers to all of the rules, regulations, conditions, methods, and other measures (A) which are required to rebuild and maintain, and useful in rebuilding and maintaining fishery resources and the marine environment; and (B) which are designed to assure that—

(i) a supply of food, and other products, and recreational benefits, may be taken or obtained therefrom on a continuing basis;

(ii) irreversible or long-term adverse effects on fishery resources, or on the marine ecosystem as a whole are highly unlikely; and

(iii) there will be a multiplicity of options available with respect to future use of these resources;

(5) "Continental Shelf fishery resources" means living organisms of sedentary species which, at the harvestable stage, are either (A) immobile, (B) in the seabed, or (C) unable to move except in constant physical contact with the seabed or subsoil of the Continental Shelf; including, but not limited to, the following species:

COLEENTERATA

Bamboo Coral—*Acarella* spp.;
Black Coral—*Antipathes* spp.;
Gold Coral—*Callogorgia* spp.;
Precious Red Coral—*Corallium* spp.;
Bamboo Coral—*Keratois* spp.; and
Gold Coral—*Parazoanthus* spp.

CRUSTACEA

Tanner Crab—*Chionoecetes tanneri*;
Tanner Crab—*Chionoecetes opilio*;
Tanner Crab—*Chionoecetes angulatus*;
Tanner Crab—*Chionoecetes bairdi*;
King Crab—*Paralithodes camtschatica*;
King Crab—*Paralithodes platypus*;
King Crab—*Paralithodes brevipes*;
Lobster—*Homarus americanus*;
Dungeness Crab—*Cancer magister*;
California King Crab—*Paralithodes californiensis*;
California King Crab—*Paralithodes rathbuni*;
Golden King Crab—*Lithodes aesquippinus*;
Northern Stone Crab—*Lithodes maia*;
Stone Crab—*Menippe mercenaria*; and
Deep-sea Red Crab—*Geryon quinquedens*.

MOLLUSKS

Red Abalone—*Haliotis rufescens* ;
 Pink Abalone—*Haliotis corrugata* ;
 Japanese Abalone—*Haliotis kamtschatkana* ;
 Queen Conch—*Strombus gigas* ;
 Surf Clam—*Spisula solidissima* ; and
 Ocean Quahog—*Arctica islandica*.

SPONGES

Glove Sponge—*Hippiospongia canaliculata* ;
 Sheepswool Sponge—*Hippiospongia lachne* ;
 Grass Sponges—*Spongia graminea* ; and
 Yellow Sponge—*Spongia barbera*.

The Secretary, in consultation with the Secretary of State, may add to the foregoing list the name of any other species of living organism which he determines to be such a resource, upon publication of a notice to such effect in the Federal Register, and such species shall thereafter be considered to be included in the term.

(6) "Council" means a Regional Fishery Management Council established under section 22 of this Act ;

(7) "fish" means all living marine organisms, including, but limited to, finfish, mollusks, crustaceans, marine mammals, and all other forms of marine animal and plant life (but not including birds) ;

(8) "fishery" means—

(A) one or more stocks of fish which can be managed as a unit for purposes of management and conservation and which are identified by the appropriate Council and the Secretary on the basis of geographic, scientific, technical, recreational, and economic characteristics ; and

(B) the business, organized activity, or act of fishing for such stocks ;

(9) "fishery conservation zone" means a zone contiguous to the territorial sea of the United States within which the United States exercises exclusive fishery management and conservation authority ;

(10) "fishing" means the catching, taking, harvesting, or attempted catching, taking, or harvesting, of any fish for any purpose other than scientific research, and any activity at sea in support of such actual or attempted catching, taking, or harvesting ;

(11) "fishing vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or of a type normally used for, fishing ;

(12) "fishing-support vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or of a type which is normally used for, aiding or assisting one or more fishing vessels at sea in the performance of any support activity (except a scientific vessel), including, but not limited to, supply, storage, refrigeration, or processing ;

(13) "foreign fishing" means fishing by a vessel other than a vessel of the United States ;

(14) "high seas" means waters beyond the territorial sea or the fishery conservation zone, (or the equivalent thereof) of any nation ;

(15) "highly migratory species" means species of the tuna which, in the course of their life cycle, spawn and migrate in waters of the ocean ;

(16) "international fishery agreement" means any bilateral or multilateral treaty, convention, or agreement which relates to fishing and to which the United States is a party ;

(17) "national standards" means the national standards for fishery management and conservation set forth in section 201(a) of this Act ;

(18) "optimum", with respect to the yield from a fishery, means the amount of fish—

(A) which, if produced, will provide the greatest benefit to the Nation ; and

(B) which is prescribed as such by the appropriate Council and the Secretary on the basis of the maximum sustaining yield from such fishery as modified by any relevant economic, social, and/or ecological factors ;

(19) "person" has the meaning set forth in section 1 of title I, United States Code, and, in addition, includes any government, including a foreign government, any entity of a government, and a citizen of a foreign nation ;

(20) "Secretary" means the Secretary of Commerce, or his delegate;

(21) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other territories and possessions of the United States;

(22) "stock", with respect to any fish, means a type species, or other category capable of management as a unit;

(23) "United States", when used in the geographical context, includes all States; and

(24) "vessel of the United States" means any boat, ship, contrivance, or other craft, however propelled or moved, which is—

(A) designed, used, or capable of being used for navigation on or under water; and

(B) documented under the laws of the United States or which is registered under the laws of any State.

TITLE I—FISHERY MANAGEMENT OF THE UNITED STATES

EXTENT OF JURISDICTION

[Sec. 101]

SEC. 101. (a) **FISHERY CONSERVATION ZONE.**—(1) There is established a zone contiguous to the territorial sea of the United States to be known as the fishery conservation zone. Within such zones the United States shall, except as provided in subsection (d) of this section, exercise exclusive fishery management authority in the manner provided for in title II of this Act. The inner boundary of this zone is a line formed by the seaweed boundaries of the coastal States, and the outer boundary of this zone is a line drawn in such manner that each point on it is 200 nautical miles from the baseline which the territorial sea is measured.

[Sec. 102]

(b) **ANADROMOUS SPECIES.**—The United States shall exercise, throughout the migratory range of each applicable species, exclusive fishery management authority over anadromous species of fish spawned in the fresh and estuarine waters of the United States in the manner provided for in title II of this Act. *Provided*, That such management authority shall not extend to such species during the time they are found within the territorial sea or the fishery conservation zone (or the equivalent thereof) of any other nation, as recognized by the United States.

(c) **CONTINENTAL SHELF FISHERY RESOURCES.**—The United States shall exercise exclusive fishery management authority over Continental Shelf fishery resources to the depth at which such resources can be exploited.

[Sec. 103]

(d) **HIGHLY MIGRATORY SPECIES.**—The exclusive fishery management authority of the United States shall not include or be construed to extend to highly migratory species of fish. Such species shall be managed solely pursuant to international fishery agreements established for such purpose.

FOREIGN FISHING

[201; 204]

SEC. 102. (a) **GENERAL.**—The Secretary and the Secretary of State, after consultation with the Secretary of the Treasury, may authorize foreign fishing within the fishery conservation zone, for anadromous species, or for Continental Shelf fishery resources, in accordance with the provisions of this section and subject, where appropriate to (1) title II of this Act, and regulations promulgated under such title, and (2) sections 301 and 302 of this Act.

(b) **ALLOWABLE LEVEL.**—(1) The allowable level of total foreign fishing, if any, shall be set upon the basis of the portion of the allowable catch of any fishery or stock of fish which cannot or will not be harvested by vessels of the United States. Annual allowed foreign fishing and animal fishing by vessels of the United States shall not, for any fishery or stock of fish, exceed the optimum yield thereof. For purposes of this subsection, the term "allowable catch" means the surplus, from any fishery or stock of fish, which can be taken without exceeding the applicable optimum yield.

(2) In determining the allowable level of total foreign fishing with respect to any particular fishery or stock of fish, the Secretary and the Secretary of State shall utilize the best available scientific information, including, but not limited to, catch and effort statistics, and relevant data compiled and made available by any foreign nation.

(3) In determining the allowable level of foreign fishing for any particular nation, with respect to any fishery or stock of fish subject to the exclusive fishery management authority of the United States, the Secretary and the Secretary of State shall consider whether, and to what extent, the vessels of such nation have traditionally fished in such fishery or for such stock.

(c) RECIPROCITY.—Foreign fishing shall not be authorized for any foreign nation unless such nation satisfies the Secretary and the Secretary of State that it extends substantially the same fishing privileges to vessels of the United States, with respect to an equivalent fishery or stock of fish within its fishery conservation zone, or its equivalent, or for such nation's anadromous species or Continental Shelf fishery resources, if any.

(d) CONDITIONS.—The Secretary and the Secretary of State shall establish appropriate conditions on foreign fishing, which shall be complied with by any foreign-flag fishing or fishing-support vessel of any nation which is authorized to fish pursuant to subsection (a) of this section. Such conditions shall be consistent with the national standards, the fishery management plans, and the management regulations under title II of this Act.

(e) MISCELLANEOUS.—(1) The Secretary, through the National Oceanic and Atmospheric Administration shall verify the authenticity of foreign catch statistics and any other relevant data furnished for purposes of this section. The Secretary may require that observers be placed aboard foreign-flag fishing and fishing-support vessels authorized to fish pursuant to subsection (a) of this section, to the extent deemed necessary by the Secretary to ensure that accurate catch statistics are reported and that the applicable allowable level is not exceeded.

(2) The Secretary shall establish a schedule of reasonable fees which shall be paid to the Secretary by any foreign-flag fishing or fishing-support vessel authorized to fish pursuant to subsection (a) of this section. In determining the level of such fees, the Secretary may take into account the cost of management, research, administration, enforcement, the value of the fishing privilege, and other relevant factors. The fees charged may vary for different categories of fishermen, to the extent deemed reasonable and appropriate.

(3) All pertinent information relating to foreign fishing, including that which is authorized to be collected by the Secretary, shall be made available publicly and shall be published, in summary form where appropriate in the Federal Register.

(4) No vessel of a foreign nation authorized to fish pursuant to subsection (a) of this section shall engage in such fishing unless and until the owner or operator thereof establishes and maintains a place of business in the United States and names an agent in a State who is authorized to receive legal process.

(f) PROHIBITION.—Except as provided pursuant to this Act, it shall be unlawful for any vessel, or for any master or other person in charge of any vessel, except a vessel of the United States, to engage in fishing in the internal waters, the territorial sea, or the fishery conservation zone of the United States, or to engage in fishing for anadromous species or Continental Shelf fishery resources.

INTERNATIONAL FISHERY AGREEMENTS

[Sec. 202]

SEC. 103. (a) GENERAL.—(1) The Secretary of State, in cooperation with the Secretary, shall initiate and conduct negotiations with any foreign nation which, prior to the date of enactment of this Act, has been engaged in, or whose citizens have been engaged in, or wish to engage in, fishing within the fishery conservation zone of the United States, or for anadromous species or Continental Shelf fishery resources. The Secretary of State, upon the request of and in cooperation with the Secretary, shall, in addition, initiate and conduct negotiations with any foreign nation in whose fishery conservation zone, or its equivalent, vessels of the United States are engaged, or wish to be engaged, in fishing, or with respect to anadromous species or Continental Shelf fishery resources as to which such nation asserts management authority and for which vessels of the United States fish, or wish to fish. The Secretary of State, upon the request of and in cooperation with the Secretary, shall, in addition, initiate and conduct negotiations with any foreign nation in whose fishery conservation zone or its equivalent, anadromous species spawned of fish spawned in the fresh and estuarine waters of the United States are found for the conservation of such species of fish. The pur-

pose of such negotiations shall be to conclude international fishery agreements to effectuate the purpose, policy, and provisions of this Act.

(2) Such agreements may include, but need not be limited to, agreements to provide for the management and conservation of—

(A) coastal species which are found both in the fishery conservation zone of the United States and in an adjacent foreign nation's equivalent of such zone;

(B) anadromous species which are found, during the course of their migration, in ocean areas subject to the fishery management authority of more than one nation, or which intermingle on the high seas with anadromous species originating in the rivers and estuaries of other nations;

(C) highly migratory species which may be covered by international fishery agreements; and

(D) coastal species or Continental Shelf fishery resources which are found in areas subject to the fishery management authority of any foreign nation, through measures which allow vessels of the United States to harvest an appropriate portion of such species in accordance with traditional fishing by vessels of the United States.

(b) REVIEW.—The Secretary of State shall immediately review, in cooperation with the Secretary, each treaty, convention, and other international agreement to determine whether the provisions of such agreements, are consistent with the purposes, policy, and provisions of this Act. If any provision or terms of any such agreement are not so consistent, the Secretary of State shall initiate negotiations to amend or terminate such agreements by not later than January 1, 1977.

(c) BOUNDARY AGREEMENTS.—The Secretary of State is authorized and directed to initiate and conduct negotiations with adjacent foreign nations to establish the boundaries of the fishery conservation zone of the United States in relation to any such nation.

(d) NONRECOGNITION.—It is the sense of the Congress that the United States Government shall not recognize the claim of any foreign nation to a fishery conservation zone, or its equivalent, beyond 12 nautical miles from the baseline from which the territorial sea is measured, if such nation—

(1) fails to recognize traditional fishing activity of vessels of the United States, if any, within such zone;

(2) fails to recognize traditional fishing activity of vessels of the United States with respect to anadromous species or Continental Shelf fishery resources as to which such nation asserts management authority; or

(3) fails to recognize and accept that highly migratory species are to be managed by applicable international fishery agreements, whether or not such nation is a party to any such agreement.

[Sec. 205]

(e) IMPORT PROHIBITION.—(1) If after a reasonable period of time the Secretary of State is unable to achieve an agreement affording vessels of the United States an appropriate portion of fish stocks found in areas subject to the fishery management jurisdiction of any foreign nation, in accordance with traditional fishing practices of such vessels and under conditions equal to those established under section 102 of this Act, and determines that such nation—

(A) has refused to commence negotiations;

(B) has failed to negotiate in good faith; or

(C) is not complying with its obligations under any existing agreement concerning fishing by United States vessels for fish stocks subject to such nation's fishery management jurisdiction,

he shall certify such determination to the Secretary of the Treasury.

(2) If any United States vessel, while fishing in waters beyond twelve nautical miles from the baseline from which a foreign nation's territorial sea is measured, is seized by such nation—

(A) as a consequence of a claim of jurisdiction which is not recognized by the United States; or

(B) such seizure is in violation of an existing international agreement or is not permitted by an agreement between the United States and such nation, the Secretary of State shall certify such action to the Secretary of the Treasury.

(3) Upon receipt of any such certification from the Secretary of State under paragraph (1) or (2) of this subsection, the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the customs territory of the United States of any fish or fish products from the fishery involved.

(4) Any import prohibition imposed under this subsection shall remain in effect (A) until an agreement is achieved, (B) until such nation complies with its obligations under such existing agreement, or (C) until the seized vessel and its catch are released, as appropriate.

(5) For the purposes of this section, the term "fish" or "fish products" means any fish, or any article which is the product of or which is composed in whole or part of such fish, caught by vessels other than vessels of the United States.

TERMINATION OF TITLE

[Sec. 401]

SEC. 104. The provisions of this title shall expire and cease to be of any legal effect on such date as a law of the sea treaty (or other comprehensive treaty, convention, or agreement with respect to fishery jurisdiction, which the United States has signed or is a party to) shall come into force or be provisionally applied by the United States.

TITLE II—NATIONAL FISHERY MANAGEMENT PROGRAM

NATIONAL STANDARDS

[Sec. 301]

SEC. 201. (a) GENERAL.—Fishery management plans developed by the Councils, and management regulations promulgated by the Secretary, pursuant to this title, shall conform to the following national standards for fishery management and conservation:

(1) Management and conservation measures shall prevent overfishing and assure on a continuing basis, the optimum yield for each fishery.

(2) Management and conservation measures shall be based upon the best scientific information available.

(3) To the extent possible, an individual stock of fish shall be managed as a unit throughout its range and interrelated stocks of fish shall be managed as a unit or in close coordination.

(4) Management and conservation measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(5) Management and conservation measures shall, where appropriate, promote efficiency in the utilization of fishery resources, except that any such measures shall not have economic allocation as its sole purpose.

(6) Management and conservation measures shall allow for unpredicted variations in fishery resources and their environment and for contingencies and possible delays in application.

(7) Management and conservation measures shall, where appropriate, minimize research, administration, and enforcement costs and shall avoid unnecessary duplication.

(b) GUIDELINES.—The Secretary shall establish guidelines, based on the national standards, for the Councils to follow in developing fishery management plans and in developing recommended regulations for the management and conservation of fisheries.

REGIONAL FISHERY MANAGEMENT COUNCILS

[Sec. 302]

SEC. 202. (a) ESTABLISHMENT.—There shall be established within 120 days after the date of enactment of this Act, seven Regional Fishery Management Councils, as follows:—

(1) The North Atlantic Fishery Management Council (hereafter in this title referred to as the "North Atlantic Council"). The North Atlantic Council, which shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, shall be concerned with the fisheries in the Atlantic Ocean seaward of such States.

(2) The South Atlantic Fishery Management Council (hereafter in this title referred to as the "South Atlantic Council"). The South Atlantic Council, which shall consist of the States of North Carolina, South Carolina, Georgia, and

Florida, shall be concerned with the fisheries in the Atlantic Ocean seaward of such States.

(3) The Gulf of Mexico Fishery Management Council (hereafter in this title referred to as the "Gulf Council"). The Gulf Council, which shall consist of the States of Texas, Louisiana, Mississippi, Alabama, and Florida, shall be concerned with the fisheries in the Gulf of Mexico seaward of such States.

(4) The Pacific Fishery Management Council (hereafter in this title referred to as the "Pacific Council"). The Pacific Council, which shall consist of the States of California, Oregon, Washington, Idaho, and Alaska, shall be concerned with the fisheries in the Pacific Ocean seaward of California, Oregon, and Washington.

(5) The Caribbean Fishery Management Council (hereafter in this title referred to as the "Caribbean Council"). The Caribbean Council, which shall consist of the Virgin Islands and the Commonwealth of Puerto Rico, shall be concerned with the fisheries in the Caribbean seaward of such States.

(6) The North Pacific Fishery Management Council (hereafter in this title referred to as the "North Pacific Council"). The North Pacific Council, which shall consist of the States of Alaska, Oregon, and Washington, shall be concerned with the fisheries in the northern Pacific Ocean seaward of Alaska.

(7) The Outer Pacific Fishery Management Council (hereafter in this title referred to as the "Outer Pacific Council"). The Outer Pacific Council, which shall consist of the States of Hawaii, American Samoa, Guam, and the Trust Territories of the Pacific, shall be concerned with the fisheries seaward of such States.

(b) REPRESENTATION OF STATES.—Each Regional Fishery Management Council shall reflect the expertise and interests of the several identified States in the ocean area over which such Council is granted authority. Each identified State is entitled to three members on each applicable Council, except that in the case of the Caribbean Council, the Virgin Islands and Puerto Rico are entitled to four members each, and in the case of the North Pacific Council, Alaska is entitled to five members, and Oregon is entitled to one member.

(c) APPOINTMENTS.—(1) The Governor of each State entitled to membership on a Council may submit to the President a list setting forth the names of individuals qualified to be appointed as members of such Council as representatives of each such State. The President shall appoint, by and with the advice and consent of the Senate, the members to represent each State in the number set forth in subsection (b) of this section at least one of whom shall be a State official with expertise in fishery management. The terms of office of the members first taking office shall expire as designated by the President at the time of nomination—one at the end of the second year, one at the end of the fourth year, and one at the end of the sixth year. Successors to such members shall be appointed in the same manner as the original members, except that members who have faithfully attended and effectively contributed, in the public interest, to the functioning of such Council are eligible for reappointment. The terms of office of successor to such members shall expire 6 years from the date of expiration of the terms for which their predecessors were appointed. Any individual appointed to fill a vacancy occurring prior to the expiration for the remainder of such term. As used in this paragraph, a "qualified" individual is one who is knowledgeable and capable of making sound judgments in the public interest with respect to the management and conservation of fishery resources.

(2) The President shall appoint, upon the recommendation of the Secretary, a Federal Government employee to serve as a nonvoting member on each Council as the representative of the Secretary.

(3) Members of a Council, who are not otherwise employed in any capacity by the Federal or any State or local government, shall receive compensation at the daily rate for GS-18 of the General Schedule, when engaged in the actual performance of duties for such Council, and all members shall be reimbursed for actual expenses incurred in the performance of such duties.

(4) (a) the Governor of each State entitled to membership on a Council wishing to submit to the President, pursuant to this subsection, a list of names setting forth the individuals qualified to be appointed as members of such Council as representatives of each such State shall submit such a list to the President not later than 45 days after the date of enactment of this Act.

(b) Presidential appointments pursuant to this subsection shall be sent to the Senate for confirmation no later than 90 days after the date of enactment of this Act.

(c) **POWERS AND FUNCTIONS.**—In addition to any other function assigned under any other provision of this Act, each Council, in accordance with the provisions of this title—

(1) shall select a chairman ;

(2) may appoint, and assign duties to, an executive director and such other full- and part-time employees as are necessary to conduct business, and persons to committees as provided in subsection (e) of this section ;

(3) shall identify fisheries in need of conservation within its geographic area of authority ;

(4) shall develop, and submit to the Secretary, an overall fishery management plan, including separate programs for each fishery, within its respective geographic area of authority, which is in need of management and conservation ;

(5) shall develop, and submit to the Secretary, recommended regulations for the management and conservation of fish within its geographic area of authority ;

(6) shall monitor fishing activity and review the impact of management regulations within its geographic area of authority and may recommend to the Secretary any appropriate amendments or changes therein ;

(7) shall conduct public hearings, at appropriate times and in appropriate locations, so as to allow all interested persons an opportunity to be heard on (A) the overall fishery management plan, (B) any separate management program ; (C) recommended regulations ; and (D) any amendments to regulations ;

(8) may otherwise carry out such other functions as are necessary and appropriate for the effective management and conservation of fishery resources within its geographic area of authority ; and

(9) shall report to the Secretary on its activities, plans, programs, findings, and such other matters as are requested.

(d) **SUPPORT.**—The Secretary shall provide to each Council such administrative support as is necessary for effective functioning.

(e) **COMMITTEES.**—(1) Each Council shall establish, maintain, and appoint the members of, a scientific and statistical committee to assist it in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to management plans or recommended regulations. Each such committee shall be composed of (A) not more than six fisheries scientists and experts, and (B) the director of the appropriate regional research center of the National Marine Fisheries Service, who shall serve as the Chairman.

(2) Each Council shall establish and maintain ad hoc or standing committees for each individual fishery identified by it as in need of conservation, to the extent necessary to assist such Council in the preparation of (A) management programs, (B) recommended regulations, and/or (C) changes or amendments to existing plans or regulations. The members of such committees shall be appointed by the respective Councils, and they shall be selected to represent persons who are actually engaged in the fishery involved and to include other persons knowledgeable and interested in the conservation of such fishery.

(3) Members of the committees established pursuant to paragraphs (1) and (2) of this subsection shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as provided in section 5703 of title 5, United States Code, for persons in Government service intermittently.

(f) **MISCELLANEOUS PROVISIONS.**—(1) No Council shall have any authority to develop a fishery management plan, or to recommend regulations, with respect to fisheries which are principally located in waters within the boundaries of a single State.

(2) Whenever a fishery extends beyond the geographic area of authority of a single Council, the appropriate Councils shall coordinate or combine their efforts as necessary.

(3) To the extent practicable and consistent with the national standards, the Councils shall incorporate, in its management plans and recommended regulations, the relevant fishery management measures of the coastal State or States nearest the fishery involved.

(4) To the extent practicable fishery management regulations shall be put into effect in a manner which does not disrupt the regular fishing season for any fishery.

MANAGEMENT REGULATIONS

[Secs. 303: 304: 305]

SEC. 203. (a) GENERAL.—As soon as practicable, each Council, or the Secretary, shall identify fisheries in need of conservation. The appropriate Council shall develop (1) a fishery management plan for each such fishery in the order needed; and (2) recommended management regulations as required for the implementation and maintenance of each such plan. Such Council shall initiate action on the formulation of such management plans and recommended regulations not later than 60 days after the first day on which all initial members of the Council have been appointed and taken office, and shall submit each such plan and recommended regulations to the Secretary as soon as practicable. Such a plan shall include—

(A) a description of the fishery, including, but not necessarily limited to, the number of vessels involved; the type of gear used; the species of fish involved and their location; the costs likely to be incurred in management; the potential revenue from the fishery; the recreational interests in the fishery; and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(B) a summary of the best scientific information available with respect to the present and probable future condition of, and the maximum sustainable yield from, the fishery;

(C) an assessment of (i) the capacity and desire of vessels of the United States to harvest the optimum yield from the fishery, and (ii) the surplus in the fishery which can be made available for foreign fishing without risk of overfishing; and

(D) any other relevant and appropriate information, data, and evaluations.

(b) TYPE OF REGULATIONS.—Recommended management regulations developed under subsection (a) of this section may—

(1) designate zones where, and designate periods when, fishing shall be limited to, or shall not be permitted, or shall be permitted only as to specified vessels or gear;

(2) establish a system which shall, directly or indirectly, limit access to a fishery on a basis which shall recognize, among other considerations, present participation in the fishery, historical fishery practices and dependence on the fishery, the value of existing investments in vessels and gear, the value of the fishing privilege, capability of existing vessels to direct their efforts to other fisheries, State limited access systems, history of compliance with applicable fishing regulations, the optimum yield of the fishery, and the cultural and social framework in which the fishery is conducted;

(3) establish limitations on the catch of fish in any fishery, based on area, species, size, number, weight, sex, incidental catch, total biomass or quotas, and other factors which are necessary for the conservation of such fish;

(4) prohibit, limit, condition, or require the use of specified types of fishing gear, vessels, or equipment for such vessels including devices which may be required solely or partially to facilitate enforcement of this title or the regulations issued hereunder.

(5) require a license or permit to be issued by the Secretary as a condition to engaging in any fishery, upon such terms as may be prescribed, including the payment of fees appropriate to the value of the fishing license or permit;

(6) require catch and other appropriate statistics from fishermen and processors; and

(7) mandate or encourage such other management and conservation measures as are necessary or appropriate to carry out the purposes of this Act.

(c) REVIEW.—(1) The Secretary shall review each management regulation which is recommended and submitted to him by Council to determine whether it is consistent with (A) the national standards and (B) the provisions and requirements of this Act and any other applicable law, before he issues a notice of proposed rulemaking regarding management regulations for the applicable fishery. If such recommended regulations are determined to be so consistent, the Secretary shall adopt them and shall publish, immediately thereafter a notice of proposed rulemaking with regard thereto. If the recommended regulations are determined not to be so consistent, the Secretary shall notify the applicable Council of such inconsistency and shall indicate the changes that are necessary to make such recommended regulations so consistent. Such Council may change the recommended regulations to make them consistent: *Provided*, That if the Council does not make the necessary changes within 60 days after it receives

notice from the Secretary, the Secretary shall make the necessary changes and shall, thereupon, issue the notice of proposed rulemaking.

(2) The Secretary shall have no authority to promulgate management regulations establishing a limited access system under subsection (b)(1) of this section unless such regulations have been approved by a majority of the membership of the Council involved.

(3) If any recommended management regulations involve methods and procedures for enforcement at sea, the Secretary shall consult with the Secretary of the department in which the Coast Guard is operating.

(4) If any recommended management regulations would apply to foreign fishing, the Secretary shall consult with the Secretary of State.

(d) **PROPOSED RULEMAKING.**—The Secretary shall publish, in the Federal Register, any management regulations which he proposes to promulgate pursuant to this Act. Each such notice (1) shall request comment thereon; (2) shall designate the fishery or fisheries to which they apply; and (3) shall summarize the recommendations of the applicable Council or Councils, including, where appropriate, an explanation of how the proposed regulations differ from those so recommended and the reasons therefor.

(e) **REGULATIONS.**—The Secretary is authorized to promulgate regulations, in accordance with the provisions of this title and section 553 of title 5, United States Code, without regard to subsection (a) thereof, to govern fishing by vessels of the United States and foreign fishing (1) within the fishery conservation zone (and vessels of the United States fishing for coastal species beyond such zone), (2) for anadromous species, and (3) Continental Shelf fishery resources. In addition, such regulations shall pertain to, but need not be limited to, the operation of the Councils, the setting of fees, procedures for obtaining data and statistics relating to fishing, and other matters relating to the purposes of this Act. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments, with any coastal State, and with any foreign nation, through the Secretary of State, and for consideration of the views of any interested member of the general public. The Secretary is further authorized, consistent with the purposes and provisions of this title, to amend or rescind any such regulations.

(f) **EMERGENCY ACTION.**—If the Secretary determines that an emergency situation exists requiring immediate action in the national interest to protect any fishery resources, he shall prepare and promulgate emergency management regulations as soon as practicable. Such regulations shall be issued in accordance with the provisions of section 553 of title 5, United States Code, without regard to subsection (a) thereof.

(g) **ACTION BY GENERAL PUBLIC.**—Any coastal State, or any interested member of the general public, may nominate a fishery as a fishery in need of regulation, by submitting a written statement to the Secretary identifying such fishery and describing the reasons why it should be managed. The Secretary shall promptly forward each such nomination to the appropriate Council for action.

(h) **OVERVIEW.**—The Secretary shall from time to time review the actions of the Councils to determine whether the Councils are acting in timely fashion. If the Secretary determines that a Council has failed to recommend management regulations for any fishery within a reasonable time, he shall prepare management regulations and submit them to such Council. Such Council may make changes in such regulations consistent with the national standards: *Provided*, That if such Council does not make such changes within 45 days after it receives such a submission from the Secretary, the regulations shall stand, and the Secretary shall issue a notice of proposed rulemaking with regard to such regulation.

(i) **FISHERIES RESEARCH.**—The Secretary shall initiate and maintain a program of fisheries research designed to acquire knowledge and information, including statistics, on fishery management and conservation including, but not limited to, biological research concerning interdependence of species, the impact of pollution, the impact of wetland and estuarine degradation, and other factors bearing upon the abundance and availability of fish.

FISHERY MANAGEMENT REVIEW BOARD

[Section not incorporated into P.L. 94-265]

SEC. 204. (a) **ESTABLISHMENT.**—There is established an independent instrumentality to be known as the Fishery Management Review Board. The Board

shall have exclusive and original jurisdiction to hear the appeals described in subsection (c) of this section.

(b) **MEMBERSHIP.**—(1) The Board shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. Of such members at least three shall be individuals who shall be appointed by the President from a list of qualified individuals submitted to the President by the National Governor's Conference, such list to consist of not less than three such individuals for each vacancy. Members of the Board shall not engage in any other business, vocation, or profession during their term of office. As used in this paragraph, a "qualified" individual is one who is knowledgeable and capable of making sound judgments with respect to appeals before the Board.

(2) The members of the Board shall be appointed for a term of 3 years, except that (A) the terms of office of the member first taking office shall expire as designated by the President at the time of nomination; and (B) any individual appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and in the same manner in which such predecessor was appointed. Successors to the members of the Board first taking office shall be appointed in the same manner as the original members. Each member of the Board shall be eligible for reappointment.

(3) The members of the Board shall select one of their number to serve as Chairman.

(4) The Board is authorized to appoint an executive secretary and such administrative law judges and other employees as are necessary for the proper performance of its duties.

(c) **APPEALS TO THE BOARD.**—(1) Any person who is adversely affected or aggrieved by, or who suffers legal wrong through, (A) any final management regulation promulgated by the Secretary pursuant to this title, or (B) a decision by the Secretary to issue, transfer, revoke, suspend, modify or renew a license or permit may obtain review of such action by the Board if he files a request therefor with the Board not later than 60 days after the date of publication of such final regulation or decision.

(2) Any Council whose recommended management regulations were determined by the Secretary to be not consistent with the national standards may obtain review of the Secretary's action by the Board if it files a request therefor with the Board not later than 60 days after the date of publication of any final management regulation involved.

(3) In any action under this section, the Secretary or any affected Council, if not a party, may intervene as a matter of right.

(4) Review proceedings under this section shall be in accordance with the provisions of section 554 of title 5, United States Code. To the extent possible, such proceedings shall be held in the locality closest to the fishery involved. If the Board finds that justice so requires, it may issue an order (A) postponing the effective date of an action of the Secretary or (B) preserving the status or rights of any person, pending the outcome of such review proceedings.

(d) **REVIEW STANDARD.**—(1) In any review requested by a Council relating to any management regulation, the Board shall uphold the action of the Secretary unless it finds that his action—

(A) was not consistent (i) with the national fishery standards or (ii) with the provisions and requirements of this Act or any other applicable law;

(B) was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(C) was contrary to constitutional right, privilege, power or immunity;

(D) was clearly not supported by the facts and record available to the Secretary; or

(E) did not observe the procedure required by this Act or other law.

If the Board does not uphold the action of Secretary, it shall enter a final decision declaring such action invalid together with the reasons therefor; remanding the matter to the Secretary; and directing the Secretary to take, after consultation with the affected Council, appropriate action.

(2) In an appeal relating to any other matter, the scope of review shall be as set forth in section 706 of title 5, United States Code.

(e) **POWERS.**—(1) The Board or any member thereof may, for the purpose of carrying out the provisions of this section, hold such hearings, sit and act at

such times and places, administer such oaths, and require by subpoena or other order the attendance and testimony of such witnesses and the production of such evidence as the Board or member deems advisable. Subpenas may be issued under the signature of the Chairman of the Board, or that of any duly designated member of the Board, and may be served by any person designated for such purpose by such Chairman. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Such attendance of witnesses and production may be required from any place in the United States to any place designated for such hearing.

(2) In case of refusal to obey a subpoena or other order, issued under paragraph (1) of this subsection, by any person who resides, is found, or transacts business within any judicial district of the United States, the district court of the United States for any such district shall have jurisdiction and shall, upon the request of the Chairman of the Board, issue to such person an order to appear and produce evidence. Any failure to obey such an order shall be punishable by such court as a contempt of court.

(3) The Administrator of General Services shall furnish the Board with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(f) COMPENSATION.—Members of the Board shall be compensated at the rate provided for level V of the Executive Schedule (5 U.S.C. 5316), and shall be reimbursed for travel expenses, including per diem in lieu of subsistence.

(g) JUDICIAL REVIEW.—Any person who is adversely affected or aggrieved by, or who suffers legal wrong through, a decision of the Board may, not later than 60 days after the date of any such decision, seek judicial review of such decision in the United States Court of Appeals for the circuit nearest to the fishery involved.

RELATIONSHIP TO STATE LAWS

[Sec. 306]

SEC. 205. Nothing in this Act shall be construed to extend the jurisdiction of any State over any natural resources beneath and in the waters beyond its seaward boundaries, or to diminish the jurisdiction of any State over any natural resource beneath and in the waters within its boundaries.

INTERSTATE COOPERATION AND UNIFORM LAWS

[Sec. 304(b)]

SEC. 206. The Secretary shall encourage cooperative action by the States and Councils for the management and conservation of coastal and anadromous species of fish and Continental Shelf fishery resources, and shall encourage, insofar as practicable, the enactment of improved and uniform State laws relating to the management and conservation of such fish.

TITLE III—MISCELLANEOUS PROVISIONS

PROHIBITED ACTS AND PENALTIES

[Secs. 307; 309; 310]

SEC. 301. (a) PROHIBITED ACTS.—(1) It is unlawful for any person to—

(A) violate any provision of this Act, or any regulation issued hereunder, regarding fishing within the fishery conservation zone or with respect to anadromous species or Continental Shelf fishery resources;

(B) violate any provision of any international fishery agreement to which the United States is a party and which is negotiated or reviewed pursuant to this Act, to the extent that such agreement applies to or covers fishing within the fishery conservation zone;

(C) ship, transport, purchase, sell or offer for sale, import, export, possess, control, or maintain in his custody any fish taken in violation of paragraphs (A) or (B) of this subsection, if such person knew or had reason to know that such taking was not lawful;

(D) refuse to permit a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, to board a fishing vessel or fishing-support vessel subject to his control, if the purpose of such requested boarding is to inspect the catch, fishing gear, ship's log, or other records or materials aboard such vessel; or

(E) fail to cooperate with a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, en-

gaged in a reasonable inspection pursuant to paragraph (D) of this subsection, or to resist any lawful arrest.

(2) For the purposes of this section, it shall be a rebuttable presumption that all fish found on board a vessel seized in connection with an act prohibited under this section were taken or retained in violation of this Act.

(b) **CRIMINAL PENALTIES.**—Any person who willfully commits an act prohibited by subsection (a) of this section shall, upon conviction, be fined not more than \$100,000 or imprisoned for not more than 1 year, or both.

(c) **CIVIL FORFEITURE.**—(1) Any district court of the United States shall have jurisdiction, upon application by the Secretary or the Attorney General, to order forfeited to the United States any fish or fishing gear, used, intended for use, or acquired by, activity in violation of any provision of subsection (a) of this section. In any such proceeding, such court may at any time enter such restraining orders or prohibitions or take such other actions as are in the interest of justice, including the acceptance of satisfactory performance bonds in connection with any property subject to civil forfeiture.

(2) If a judgment is entered for the United States under this subsection, the Attorney General is authorized to seize all property or other interest declared forfeited upon such terms and conditions as are in the interest of justice. All provisions of law relating to the disposition of forfeited property, the proceeds from the sale of such property, the remission or mitigation of forfeitures for violation of the customs laws, and the compromise of claims, shall apply to civil forfeitures incurred, or alleged to have been incurred, under this subsection, insofar as applicable and not inconsistent with the provisions of this section. Such duties as are imposed upon the collector of customs or any other person with respect to seizure, forfeiture, or disposition of property under the customs laws shall be performed with respect to property used, intended for use, or acquired by activity in violation of any provision of subsection (a) of this section by such officers or other persons as may be designated for that purpose by the Secretary.

ENFORCEMENT

[Sec. 311]

SEC. 302. (a) GENERAL.—The provisions of this Act shall be enforced, together with regulations issued hereunder, by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels, and facilities of any other Federal agency, or any State agency, in the performance of such duties.

(b) **POWERS.**—Any person, duly authorized pursuant to subsection (a) of this section, may—

(1) board and inspect any fishing vessel or fishing-support vessel which is within the fishery conservation zone, or which he has reason to believe is fishing for anadromous species of Continental Shelf fishery resources;

(2) arrest any person, with or without a warrant, if he has reasonable cause to believe that such person has committed an act prohibited by section 301(a) of this title;

(3) execute any warrant or other process issued by an officer or court of competent jurisdiction; and

(4) seize all fish and fishing gear found aboard any fishing vessel or fishing-support vessel which is engaged in any act prohibited by section 301(a) of this title.

(c) **COURTS.**—The district courts of the United States shall have exclusive jurisdiction over all cases or controversies arising under this Act, except as provided in section 204 of this Act. Such courts may issue all warrants or other process, to the extent necessary or appropriate. In the case of Guam, actions may be brought and process may be issued by the District Court of Guam; in the case of the Virgin Islands, by the District Court of the Virgin Islands; and in the case of American Samoa, by the District Court for the District of Hawaii. The aforesaid courts shall have jurisdiction over all such cases and controversies without regard to the amount of controversy or the citizenship of the parties.

(d) **EFFECTIVE DATE.**—Except as provided in this subsection, the effective date of this Act shall be the date of enactment, but the provisions of this Act with re-

spect to fishing within the fishery conservation zone and for anadromus species shall not be effective for enforcement as to violations before July 1, 1977.

REPEAL

[Sec. 402]

SEC. 303. (a) The Act of October 14, 1966 (16 U.S.C. 1091-1094), is repealed.
(b) The Act of May 20, 1964 (16 U.S.C. 1081-1086), as amended by the Act of July 26, 1968 (82 Stat. 445), is repealed.

AUTHORIZATION FOR APPROPRIATIONS

[Sec. 406]

SEC. 304. There are authorized to be appropriated for the purposes of this act—
(1) to the Secretary such sums as are necessary, not to exceed \$2,000,000 for the fiscal year ending June 30, 1976; not to exceed \$5,500,000 for the transitional fiscal quarter ending September 30, 1976; and not to exceed \$22,000,000 for the fiscal year ending September 30, 1977; and

(2) to the Secretary of the department in which the Coast Guard is operating such sums as are necessary, not to exceed \$13,000,000 for the fiscal year ending June 30, 1976; not to exceed \$3,250,000 for the transitional fiscal quarter ending September 30, 1976; and not to exceed \$13,000,000 for the fiscal year ending September 30, 1977.

Amend the title so as to read: "An act to extend, pending international agreement, the fishery management and conservation authority of the United States, and for other purposes."

The title was amended so as to read: "A bill to extend, pending international agreement, the fishery management and conservation authority of the United States, and for other purposes."

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. Mansfield addressed the Chair.

The PRESIDING OFFICER (Mr. Gary Hart). The Senator from Montana.

Mr. MANSFIELD. Mr. President, I yield to the Senator from Washington without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that S. 961 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make such technical and clerical corrections in the engrossment of the Senate amendments to H.R. 200.

The PRESIDING OFFICER. Without objection, it is so ordered.

JANUARY 27, 1976

The Senate continued with the consideration of the bill (S. 961) to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 961, which the clerk will state.

The second assistant legislative clerk read as follows:

A bill (S. 961), the Magnuson Fisheries Management and Conservation Act of 1976.

The Senate continued with the consideration of the bill (S. 961) to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Jonathan Fleming, Christine Cohagen, and William Jackson, of my staff, have the privilege of the floor during all phases of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1331

Mr. CRANSTON. Mr. President, I send to the desk an amendment No. 1331, cosponsored by Senator Griffin, and ask for its immediate consideration.

The amendment is as follows:

On page 29, between lines 12 and 13, insert the following:

[Sec. 2]

"(7) The Convention on Fishing and Conservation of the Living Resources of the High Seas and the decision of the International Court of Justice in the 1974 Fisheries Jurisdiction case affirm the special interest a coastal nation has in the conservation of the coastal and anadromous stocks of fish on the high seas adjacent to its territorial sea.

"(8) All nations engaged in a fishery have an obligation under international law to negotiate in good faith toward achieving necessary conservation measures for the stocks which they exploit.

"(9) There is a right in international law for a coastal nation to adopt emergency conservation measures appropriate to coastal and anadromous stocks of fish in any area of the high seas adjacent to its territorial sea if negotiations to that effect with other nations concerned have not led to agreement within 6 months, and if such conservation measures are based on appropriate scientific findings and do not discriminate against foreign fishermen.

"(10) The Convention on Fishing and Conservation of the Living Resources of the High Seas provides appropriate procedures for the establishment of emergency conservation measures.

"(11) Scientific findings indicate that certain coastal and anadromous stocks in areas of the high seas adjacent to the United States territorial sea are depleted and other such stocks are in danger of depletion unless proper conservation measures are applied.

"(12) Until an effective international agreement on fishery management and jurisdiction can be negotiated and either provisionally or finally implemented, the United States should take necessary measures consistent with international law that are urgently required for the conservation of fisheries stocks."

On page 29, line 13, strike "(7)" and insert in lieu thereof "(13)".

On page 29, lines 14 and 15, strike "the fishery resources subject to the jurisdiction of the United States" and insert in lieu thereof "fishery resources".

On page 29, line 22, strike "by declaring" and insert in lieu thereof a semicolon.

On page 29, strike lines 23 through 25.

On page 30, strike lines 1 through 5.

On page 30, line 6, strike "(3)" and insert in lieu thereof "(2)".

On page 30, line 9, strike the period and insert in lieu thereof "; and".

On page 30, between lines 9 and 10, insert a new paragraph as follows:

"(3) to direct the Secretary of Commerce and the Secretary of State to proceed in accordance with article 7 of the Convention on Fishing and Conservation of the Living Resources of the High Seas, to put into effect such measures of conservation and management as are necessary to protect stocks of coastal and anadromous fish in areas off the coast of the United States until such time as an effective international agreement on fishery management and jurisdiction can be negotiated and put into provisional or final effect."

On page 30, line 22, strike all after "fish" and insert in lieu thereof "; and".

On page 30, strike lines 23 and 24.

On page 35, strike lines 3 through 6 and insert in lieu thereof the following:

[Sec. 3]

"(9) 'fisheries zone' means the zone established pursuant to the Act of October 14, 1966 (16 U.S.C. 1091-1094), contiguous to the territorial sea of the United States:"

On page 37, line 14, strike "and".

On page 37, line 22, strike the period and insert in lieu thereof "; and".

On page 37, after line 22, insert the following:

"(25) 'contracting party' means any government party to an international fishery agreement."

Beginning on page 38, line 3, strike everything down through line 10 on page 45 insert in lieu thereof the following:

"FISHERY CONSERVATION

[Secs. 101; 102; 103]

"Sec. 101. (a) The Secretary is directed, in coordination with the Secretary of State and in accordance with the provisions of section 203 of this Act, to promulgate regulations necessary to conserve the productivity of the living resources of the sea in areas adjacent to the territorial sea of the United States which the Secretary determines will result in the optimum overall biological, economic, and social benefits. Such regulations shall apply simultaneously and equally to all vessels and fishermen taking, either intentionally or as an incidental catch, regulated fish stocks.

"(b) Any regulation promulgated pursuant to this section may designate zones where, and establish periods when, no fishing shall be permitted; establish size and catch limits for any species of fish; prohibit the use of certain types of fishing gear; and prescribe such other measures as the Secretary deems necessary and appropriate. In making any determination with respect to appropriate conservation and management measures, the Secretary shall take into account relevant economic and social factors. The Secretary may provide by regulation for the issuance of permits to implement any such measures.

"(c) (1) Notwithstanding any other provision of this Act or of any other provision of law, any regulation promulgated by the Secretary pursuant to this Act which applies in any area of the high seas adjacent to the fisheries zone shall be deemed to be a unilateral measure of conservation of the United States within the meaning of article 7 of the Convention on Fishing and Conservation of the Living Resources of the High Seas. No such regulation shall be promulgated nor enter into force and effect until the close of the 6-month period immediately following the date on which the Secretary of State notifies any nation concerned that the United States proposes to adopt conservation measures in such area of the promulgation. During such 6-month period, the Secretary of State shall—

"(A) enter into negotiations pursuant to such article 7 with the other contracting parties to such convention in order to obtain their agreement to prohibit vessels documented under their respective laws from engaging in acts prohibited by such regulations; and

"(B) enter into such other bilateral or multilateral negotiations as may be appropriate in order to obtain the agreement of any foreign nation to prohibit vessels documented under its laws from engaging in acts prohibited by such regulations.

"(2) After the close of such 6-month period, the regulation concerned shall be promulgated and have force and effect within the area of the high seas to which it applies, and the Secretary of State shall notify all foreign nations of the effective date of the regulation. Any vessel not documented under the laws of the

United States or otherwise registered under the laws of any State which thereafter engages in any act in the area concerned which is prohibited by such regulation shall be deemed to be unlawfully engaging in fisheries within waters to which the United States has the same rights in respect to fisheries as it has in its territorial waters and thereby to be in violation of section 301 of this Act, and such vessel and the master or other person in charge of such vessel shall be subject to the enforcement provisions of, and to the penalties (including seizure, forfeiture, and condemnation) imposed by, such Act.

"AGREEMENTS WITH FOREIGN COUNTRIES

[Secs. 201; 202; 204; 205]

"SEC. 102. (a) The Secretary of State, in consultation with the Secretary, and when appropriate, with the Secretary of the Department in which the Coast Guard is operating, shall engage in negotiations with any contracting party to the Convention on Fishing and Conservation of the Living Resources of the High Seas in regard to measures for the conservation of the living resources of the high seas, when such negotiations are necessary to carry out the purposes of articles 4, 6, 7, 8, and 12 of such convention and with any contracting party to any other international fishery agreement.

"(b) The Secretary of State shall notify the Secretary of receipt of any of the following pursuant to such convention :

"(1) Communications from the Director-General of the Food and Agriculture Organization of the United Nations, as provided in article 5(1) of the convention.

"(2) Notice of the adoption of conservation measures by any contracting party pursuant to article 7(1) of the convention.

"(3) Notice of findings of a special commission provided for by article 9 of the convention.

"(4) Notification of the withdrawal of a conservation measure by the contracting party initially adopting such measures.

"(5) All other communications related to the duties of the Secretary under the convention.

"(c) The Secretary of State, upon notification from the Secretary of the promulgation of any regulation pursuant to this Act governing fishing in waters of the high seas seaward of the fisheries zone, shall notify the Director-General of the Food and Agriculture Organization of the United Nations, and any contracting party to such convention whose nationals fish in the waters covered by such regulation, of its contents. The Secretary of State, in consultation with the Secretary, shall undertake to enter into agreements with any contracting party to such convention for the implementation of any regulation adopted by the United States, or by such contracting party pursuant to such convention, which is intended to apply in waters beyond the respective jurisdiction of any such contracting party. Such agreements may provide for authorization of designated personnel of a contracting party to act as enforcement officers in implementing any such regulation.

"(d) The Secretary of State, in consultation with the Secretary, may—

"(1) enter into an agreement with any contracting party for the establishment of any special commission pursuant to article 9 of such convention, and for the payment of costs and expenses of such special commission;

"(2) appoint the United States member to any such special commission; and

"(3) appoint, upon the request of any contracting party to the convention or upon the request of the Secretary-General of the United Nations, members to a special commission invoked to resolve a dispute between contracting parties to the convention and to which dispute the United States is not a party.

"(e) The Secretary of State shall, at the request of any nation affected by this Act that is not a party to the convention on Fishing and Conservation of the Living Resources of the High Seas, enter into an agreement mutually accepting the dispute settlement provisions of article 9 of that convention or any other appropriate compulsory dispute settlement procedure with respect to any dispute that may arise regarding measures taken pursuant to this section."

[Secs. 202; 401]

On page 45, line 12, strike "104" and insert in lieu thereof "103".

[Sec. 203]

On page 55, line 2, strike "surplus" and insert in lieu thereof "yield".

On page 55, line 3, strike "for foreign fishing".

On page 58, strike everything after "fishing" on line 10, down through the period on line 14 and insert in lieu thereof the following: "in accordance with the provisions of section 101 of this Act, pursuant to article 7 of the Convention on Fishing and Conservation of the Living Resources of the High Seas."

On page 59, line 7, strike the period and insert in lieu thereof the following: "and in accordance with the provisions of section 101 of this Act in the case of regulations related to foreign fishing."

On page 66, line 3, strike "fishery conservation" and insert in lieu thereof "fisheries".

[Sec. 307]

On page 66, line 3, immediately after "zone" insert "or the territorial sea".

On page 66, strike everything after "Act" on line 7, down through line 9 and insert in lieu thereof a semicolon.

[Sec. 311]

On page 68, after line 24, insert the following new paragraph:

"(b) Except as provided in section 101, in the case of any vessel not documented under the laws of the United States or otherwise registered under the laws of any State, any penalty or prohibition imposed by this Act with respect to fishing in the high seas seaward of the fisheries zone may only be applied to such vessel pursuant to, and under the terms of, any applicable international fishery agreement."

On page 69, line 1, strike "(b)" and insert in lieu thereof "(c)".

On page 69, strike everything after "vessel" on line 4, down through line 6 and insert in lieu thereof the following: "documented under the laws of the United States or otherwise registered under the laws of any State or any other such vessel subject to the jurisdiction of the United States pursuant to section 101 of this Act or any other Act";

On page 69, line 16, strike "(c)" and insert in lieu thereof "(d)".

[Sec. 402]

On page 70, strike lines 4 through 9.

[Secs. 402; 406]

On page 70, line 11, strike "304" and insert in lieu thereof "303".

On page 71, strike the language in quotes relating to the title and insert in lieu thereof the following: "A bill to establish, pending international agreement, a United States fisheries management and conservation program in order to conserve and protect fishing resources from depletion, and for other purposes."

Mr. NELSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. MAGNUSON. As I understand it, the pending amendment is the amendment of the Senator from California.

Mr. NELSON. Mr. President, this amendment, and I will read it, simply would amend the Cranston amendment. It states:

[Secs. 101; 102; 103]

Insert after the word "act" on page 5, line 4, the following language: "To announce within 30 days of the enactment of this act his intention to promulgate regulations to conserve the seriously-depleted or endangered species in their specific areas; to notify immediately thereafter the foreign nations presently fishing for the species in these areas of his intention."

The sole purpose is to set a trigger date which will require negotiations to begin under the Cranston amendment within 30 days after the enactment of this act, if it becomes law. That will start the period of 6 months during which the Secretary may negotiate with other countries which are fishing or wish to fish in these waters. Without this provision negotiations may never start, so it is necessary to have a trigger date for the commencement of the 6-month period.

The PRESIDING OFFICER. The Chair will rule it will take unanimous consent for the Senator to modify it or the Senator from California to accept the modification.

Mr. STEVENS. Let me put this in context and I am very sad to see my good friend has been led down the primrose path on this amendment.

Some people call this a compromise. It is no compromise. It comes from the people who have opposed our bill all along, and knowing that the Senator has sought the conservation objectives that we seek, I am sorry to see him in this position.

Let me just clarify for the Senator the problem. The problem is that article 7 requires 6 months for negotiation before a nation can adopt unilateral measures of conservation appropriate to stocks of fish or other marine resources in any area of the high seas adjacent to a territorial sea.

The impact of what the Senator suggests obliterates the 9-mile contiguous zone we already have, and I do not believe the Senator wants the President of the United States to announce within 30 days that he is going to take unilateral measures of a nondiscriminatory nature in the 9-mile contiguous zone that this Congress already protected by the Bartlett Act.

The impact of what he is suggesting is that the President is going to go out and make an announcement to the world that the existing U.S. 12-mile fisheries zone is no longer in effect. None of the nations that are currently heavily depleting our coastal fishing resources are parties to this convention, not Japan, not Russia, not Korea. You cannot take in the unilateral action you perceive without obliterating the preferential treatment accorded U.S. fisherman that already exists in the 12-mile zone.

We do exclude all foreign fishing from that zone. Article VII is absolutely nondiscriminatory in character. My friend is getting us into a position where we are taking a step backward as far as protection of our resources within the 12-mile zone are concerned.

Further, you cannot do it under the very terms of the treaty.

Mr. NELSON. Although I have enjoyed his eloquence, I have not stated whether I was for or against the Cranston amendment. The Senator is arguing against the Cranston amendment. This perfecting amendment is neutral, as far as I am concerned, on the Cranston amendment. It simply sets the effective date that the negotiations shall start in the event the Cranston amendment becomes law. I may vote against the Cranston amendment. I may vote for it, but I am not arguing here the merits of the Cranston amendment one way or the other.

Mr. STEVENS. I am arguing the merits of my friend's amendment which, I take it, is designed to improve the Cranston amendment, because it is seriously defective. But this amendment the Senator has suggested will not improve it, because it is contrary to the treaty itself. The treaty itself requires 6 months before any conservation measures are effective against foreign nations provided negotiations to that effect with other States concerned have not led to an agreement.

I think if you are going to talk about taking this so-called compromise approach, at the very least we have to comply with the treaty if we ever intend to get to the International Court. I hope that the Senator would not put a time frame in this action that is not contemplated by the treaty itself. The treaty says 6 months, you must attempt

to reach agreement within 6 months. After that a State may adopt unilateral measures of a nondiscriminatory basis.

Mr. NELSON. Mr. President, in response to the Senator from Alaska, let me say this amendment that I have offered—the amendment which the Senator from Wisconsin is offering does not touch the 6-month negotiating time at all. All the amendment says is that within 30 days after this becomes law the negotiations shall begin. With that stipulation the Secretary could conceivably wait for 10 years, for 50 years.

All this amendment says is the 6 months' negotiation period shall begin 30 days after this act becomes law, if it becomes law.

Mr. STEVENS. I hope my good friend stays with the great national environmental organizations that support the 200-mile bill. There is a compulsory, dispute settlement provision in that 1958 convention which must be taken into account in terms of any time frame placed on the President's actions.

The President cannot take this unilateral position the Senator suggests within that time frame until the provisions of the total treaty have been complied with. It would take longer than the time the Senator is specifying is my point.

Mr. CRANSTON. Mr. President, having now had this preliminary discussion, I would like to proceed to make the presentation for my amendment.

I yield to the Senator from West Virginia.

UNANIMOUS-CONSENT AGREEMENT—S. 961

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared on both sides of the aisle.

Mr. President, I ask unanimous consent that the agreement on S. 961, the fisheries bill, be modified as follows:

That immediately following the vote on the amendment of the Senator from South Carolina (Mr. Thurmond), if offered, the question be put on the Commerce Committee amendment in the nature of a substitute, as amended, without intervening motions, amendments, or appeals, or debate; that third reading of the bill then occur, and immediately thereafter, without intervening motions, or debate, the Committee on Commerce be discharged from the further consideration of H.R. 200; that the Senate proceed to its immediate consideration; that all after the enacting clause be stricken therefrom; that the text of S. 961, as amended by the Senate, be substituted therefor, to be followed immediately by third reading and the vote on final passage of the bill as amended, without any intervening action or debate.

The PRESIDING OFFICER (Mr. Hatfield). Is there objection?

Mr. GOLDWATER. Reserving the right to object, which bill is that?

Mr. ROBERT C. BYRD. This is a House bill which corresponds with the pending Senate fisheries bill.

Tomorrow, the schedule is very closely clocked, and in view of that fact, the manager of the bill and the ranking member and Senators who are in opposition thereto are willing and, as a matter of fact, want to proceed with the consideration of the House bill.

This merely provides for that mechanism, so that without debate the House bill will be called up, the Senate language will be substituted therefor.

Mr. GOLDWATER. Today?

Mr. ROBERT C. BYRD. Tomorrow.

The PRESIDING OFFICER. Without objection——

Mr. GRIFFIN. Reserving the right to object——

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I will now outline my reasons for offering this amendment with Senator Griffin and others.

I would like, first, to say that I had some reluctance in entering into this effort, in part because I know of the long years and the grave concerns of the Senator from Washington, whose bill this is. He has worked on this for many, many years.

I respect his concern and his work and I would only do this if I were deeply concerned myself about the issue and had very solid reasons for suggesting an alternative.

I share the objectives of the Senator from Washington. I believe that if this amendment prevails, we will achieve those objectives with less risk to the other interests, and, if the amendment by the Senator from Wisconsin is approved, with greater dispatch, than we would under the bill in its present form.

My interest, like that of the Senator from Washington, goes back many, many years in terms of my interest in world law and in the law of the seas.

The matter of California's fishermen is of secondary interest to me, and they are divided. Those in the South that fish for tuna would support what I am doing; those in the North, who fish for other fish, would not approve of what I am doing.

Perhaps the fishermen from the South in regard to tuna are more vocal, but of course, I represent both and would like to take into account the interests of both. I cannot. But I am far more concerned about the international implications of what we consider here.

Mr. President, Senator Griffin and I, working with other Senators, have prepared an amendment to S. 961 in an attempt to establish a compromise between the proponents of the bill's purpose, which is to protect our fisheries from depletion, and opponents of unilateral action by the United States to establish exclusive control of fishing within a 200-mile economic zone. [Secs. 2(b)(1); 101; 102]

I recognize, I repeat, the great expertise of the distinguished author of S. 961, Senator Magnuson, and the able advocacy of his bill by Senator Stevens. Senator Pell, as an observer of the negotiations at the Law of the Sea Conference for many years, also has made substantial contributions toward our understanding of the issues involved in protecting our fisheries from excessive fishing by United States and foreign fishermen. Senator McIntyre also has argued convincingly that existing conservation mechanisms are not adequately protecting our fisheries. He has said we must act promptly to save our fishing resources.

There are many points of agreement, I believe, between the sponsors of S. 961 and the sponsors of the amendment now before us. I would like to touch on them briefly, as I see them.

We all agree on the absolute necessity of protecting fish stocks in our territorial waters and adjacent seas from overfishing. There are at least 14 overfished stocks and others may be in danger.

Fish and the living natural resources of the sea are a vital source of food for the United States and many nations. Even landlocked, developing nations are looking to the sea to supplement their peoples' meager protein diet. At the rate we are fishing our oceans, we may turn our seas into lifeless waters with unforeseen and disastrous effects on our world environment.

The following stocks are considered to be overfished: Yellowfin sole, Alaska pollock, Pacific Ocean perch, Pacific halibut, Atlantic halibut, Bering Sea herring, Bering Sea shrimp, haddock, yellowtail flounder, California sardine, Pacific mackerel, Atlantic sea scallop, northwest Atlantic shrimp, and Atlantic bluefin tuna.

Some of this is due to foreign fishing; some is due to U.S. fishing.

The National Oceanic and Atmospheric Administration reports that the following fish: California sardine, menhaden, Pacific halibut, Pacific mackerel, and Pacific barracuda have been depleted due to U.S. fishing; yellowfin sole, Alaska pollock, Pacific Ocean perch, Atlantic halibut, Bering Sea herring, haddock, Bering Sea shrimp, and Atlantic sea scallop have been depleted due to foreign fishing; and yellowtail flounder and Atlantic blue-fin tuna have been depleted due to both U.S. and foreign fishing.

We all agree that the Law of the Sea Conference has produced disappointing results so far.

I understand the impatience of the Senator from Washington and others with those disappointing results. I share that impatience.

Estimates on when a treaty will be forthcoming range from up to 6 or 7 years hence—or, pessimistically, never. Observers have said that the best that could be hoped for is 3 years. Three years may be too long to wait to establish conservation measures to protect fish stocks in U.S. waters and adjacent seas.

Should the Law of the Sea Conference produce a treaty which this body could ratify, there is consensus here that such an international agreement would be the best way to preserve fish stocks. Both approaches provide that if and when a treaty comes into force, the provisions of the proposed law under discussion today will terminate, to the extent that they are inconsistent with the treaty. **[Sec. 401]**

There is agreement that the United States must continue to press for affirmative action through bilateral and multilateral negotiations independently of the Law of the Sea Conference, if we are to regulate overfishing.

Before coming to the major point of difference, I would like to state for the Members of the Senate my understanding of the current negotiating position of the United States and our negotiating partners—the so-called Evensen Group which prepared an informal single negotiating text at the Geneva session last spring.

The negotiating draft provides for an exclusive economic zone to extend for 200 nautical miles. The pertinent parts of article 50 of the draft provides as follows:

1. The coastal State shall determine the allowable catch of the living resources in its exclusive economic zone.

2. The coastal State, taking into account the best evidence available to it, shall ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation. As appropriate, the coastal State and relevant subregional, regional and global organizations shall co-operate to this end. * * *

Article 51 provides that the coastal States shall exercise management control in the following fashion:

1. The coastal State shall promote the objective of optimum utilization of the living resources in the exclusive economic zone without prejudice to the provisions of article 50.

2. The coastal State shall determine its capacity to harvest the living resources of the exclusive economic zone. Where the coastal State does not have the capacity to harvest the entire allowable catch, it shall, through agreements or other arrangements and pursuant to the term, conditions and regulations referred to in paragraph 4, give other States access to the surplus of the allowable catch.

Significantly, the working draft task force was unable to reach any agreement on protection of highly migratory species—mainly tuna. These species, particularly tuna, constitute one of our most valuable harvests from the sea. The actions of other nations to assert a 200-mile territorial sovereignty over the seas has caused extreme troubles for the tuna industry.

The bill—S. 961—in effect, unilaterally asserts the economic sovereignty provisions of the negotiating draft, as they apply to fishery management. [Sees. 101; 102] It does this, I believe, without foundation in international law and without full consideration for the effect this one action will have on other issues still being negotiated at the Law of the Sea Conference. Finally, it takes an action which is opposed by the executive branch—the arm of the Federal Government charged with carrying out the laws and policies we propose.

I will detail my objections to this unilateral action later.

The amendment we are offering also differs in one other major respect from the bill. Our proposal calls for nondiscriminatory application of fishing management rules beyond our territorial waters. This position is consistent with existing international law on the subject.

The International Court of Justice in the fisheries jurisdiction case observed that:

Although a coastal nation has preferential rights in adjacent seas to its territorial waters, a coastal nation entitled to preferential rights is not free, unilaterally and according to its own uncontrolled discretion, to determine the extent of those rights.

The court added, "It is implicit in the concept of preferential rights that negotiations are required." In fact, these are the principles we follow today in negotiating fishing treaties, including preferential rights.

Our amendment proposes a way to lawfully protect the preferential rights of the United States in fisheries on the high seas adjacent to our territorial waters. It does so by mandating the Secretaries of Commerce and State to initiate the promulgation of conservation regulations under the provisions of article 7 of the 1958 Convention on Fishing and Conservation of the Living Resources of the Sea. In doing so we are letting other nations know that we intend to conserve our fisheries resources within the framework of existing international law.

Under our amendment as modified by Senator NELSON's amendment—and I trust it will be so modified by adoption of the Nelson

amendment—within 30 days after enactment of the bill, the Secretary of Commerce shall announce his intention to promulgate regulations to conserve seriously depleted species and to notify the foreign nations presently fishing for these species of this intention.

In his actions the Secretary is to follow the procedures set forth in article 7 of the 1958 Fishing Convention. Article 7 works in the following manner:

First. A coastal nation such as the United States makes a finding that certain of its fish stocks are in urgent need of conservation.

Second. The United States notifies other nations which fish for these stocks of its intent to adopt unilateral measures of conservation pursuant to article 7 of the Geneva Convention.

Third. The United States then enters into negotiations with the concerned nations.

Fourth. If, after 6 months, these negotiations have not resulted in agreement, the United States promulgates regulations to unilaterally enact appropriate measures.

Fifth. These conservation regulations will remain in effect unless challenged. If challenged, they will remain in force until a decision on their validity is reached by a special commission of five members to be appointed by agreement between the nations in dispute.

Sixth. The special commission arbitrating a dispute will award its judgment to a coastal nation which adopts conservation measures if the coastal nation has acted in a manner consistent with one, an urgent need for conservation, two, appropriate scientific findings, and three, the provisions of nondiscrimination against foreign fishermen.

Can these provisions be enforced against nonsignatory nations?

I believe there is support for an affirmative answer in the fisheries jurisdiction decision of the International Court of Justice. This position is supportable on two grounds:

First. The conservation measures promulgated will be achieved through negotiations as required by article 7.

Second. The regulations themselves must be applied evenhandedly to all, and hence will not constitute a unilateral assertion of preferential rights in violation of the principles enunciated by the world court.

Louis Henkin, Hamilton Fish Professor of International Law and Diplomacy, Columbia Law School, has been quoted as writing in a letter to Representative Leggett:

Any unilateral action beyond the territorial sea is *prima facie* suspect. In my view, however, an impartial tribunal might well hold that, unlike assertions of exclusive fishing rights, bona-fide conservation measures applied to all (including fishing by the coastal state) is now within the authority of the coastal state under customary law.

The point is clear and until tested in the world court we must accept the best views available on what the law is and what the court is likely to decide.

Our amendment is drafted along the lines suggested by Professor Henkin's letter.

An example of the consequence of unilateral action is cited in the report of the Armed Services Committee.

I read from the report of the Armed Services Committee in rebuttal to the suggestion that our unilateral action is not likely to lead to unilateral action by others.

Mr. MAGNUSON. Mr. President, will the Senator yield briefly?

Mr. CRANSTON. Certainly.

Mr. MAGNUSON. When the Senator talks about the report of the Armed Services Committee, I think he ought to state further it is the minority report of that committee.

Mr. CRANSTON. The Senator is correct. The statement I am about to read is from the statement of minority views signed by John C. Stennis, Strom Thurmond, John G. Tower, and Dewey F. Bartlett.

Mr. STEVENS. I am somewhat disturbed that the State Department seems to have taken another position on article 7. Will the Senator provide that also?

Mr. CRANSTON. Right now.

Mr. STEVENS. A position contrary to what they testified 3 years ago.

Mr. CRANSTON. It is on the way to the Senator right now.

The statement is as follows:

If the United States acts unilaterally to protect a parochial ocean interest by imposing its will on the nations of the world, history and logic indicate that these same nations will retaliate by acting to protect their parochial ocean interests. The parochial ocean interests of other nations are not limited to fishing but include the full spectrum of ocean interests from military transit to seabed mining. Witness the proliferation of claims for larger territorial and hence navigational jurisdiction following the expansion of U.S. fishing jurisdiction in 1945 and 1960. Consistent with this historical pattern of escalating retaliation, Mexico, only six days after passage in the U.S. House of Representatives of legislation establishing a 200-mile fishing zone, declared a 200-mile economic zone. This economic zone included jurisdiction over ocean resources considerably beyond fisheries as well as jurisdiction over ship construction and operation.

Rather obviously, that is a precedent in history that relates directly to the subject we are now considering on the Senate floor. Also rather obviously, it does not matter much who in the Armed Services Committee cited this, since it is a historical fact that has to be noted and agreed to as a historical fact by anyone who is concerned with this matter.

To abandon existing structures of international law and to assert unilaterally, without negotiations, a position which still is being debated by the Law of the Sea Conference—as S. 961 does—is to take a backward step in the age-long struggle to solve mankind's problems through peaceful international negotiations and arrangements. The bill is a backward step that could haunt this Nation when we face other issues relating to control over natural resources, notably on questions of access.

The nations of the world will have to face the critical questions of pollution, population, and use of the world's resources. They will be making decisions and taking action with an eye to their national interest. The precedents established now will be applied in future years—for better or for worse. The consequences of what we do with respect to the bill before us extend beyond the issue of conservation and protection of our fisheries. It is in our national interest to base our actions in protecting fish upon the established international principles and procedures available to us today and to reject an invitation to take unilateral action without negotiations and consultations with other nations.

The warning of the State Department as printed in the adverse report of the Foreign Relations Committee on S. 961, is worth repeating—and in this case there was a majority decision by the committee, against that bill.

The authors of the report wrote :

It is the concern of the State Department, that a unilateral claim would be a serious setback to the development of international legal institutions and the rule of law in the oceans—

Mr. President, I want to repeat those words for emphasis, “a serious setback to the development of international legal institutions and the rule of law in the oceans.”

If we are to take action independently of the Law of the Sea Conference to preserve our fish—and it appears that we must—then we should do so in a manner consistent with the development of international legal institutions and the rule of law.

I do not think, for myself, that the supporters of S. 961 and I differ in our basic objective: to take prompt action to conserve our depleted fish stocks on an interim basis until the Law of the Sea Conference can produce a treaty which can be ratified by the Senate. **[Sec. 401]** I have heard nothing and read nothing in the debates to indicate otherwise.

The issue on which we differ is on how to proceed in a manner consistent with international law.

The amendment which Senator Griffin and I—with Senator Gravel—have prepared adopts an approach which utilizes existing international institutions and law. It has the support of the Department of State.

And it is consistent with what we have learned from experts in international law.

I urge Senators to study our amendment very carefully keeping in mind that we share a common objective—to protect American fisheries from overfishing by all parties. **[Sec. 2(a)]** Many of us have very strong objections to taking any unilateral action. This compromise is offered as a way to achieve our common purpose through actions which can be supported by a large majority and which have the support of the Department of State, the agency most deeply concerned with this matter.

I now ask unanimous consent, Mr. President, to have printed in the Record a letter from Monroe Leigh of the Department of State, who is its legal adviser, addressed to me, dated January 27, 1976.

There being no objection, the letter was ordered to be printed in the Record, as follows :

DEPARTMENT OF STATE,
THE LEGAL ADVISER.
Washington, January 27, 1975.

HON. ALAN CRANSTON,
U.S. Senate.

DEAR SENATOR CRANSTON: You have asked for a preliminary opinion on a matter of international law which is of interest to the Senate in its current debate of S. 961. Specifically, whether or not the United States would be justified under international law to adopt, pursuant to Article 7 of the 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas, conservation measures which would be applied against non-Parties to the Convention.

Before a Party to the Convention takes action pursuant to Article 7 there must be a need for urgent application of conservation measures; international negotiations must be pursued for six months; the measures adopted must be based on appropriate scientific findings; the measures must not discriminate in form or fact against foreign fishermen; and the measures taken must be

subject to the compulsory dispute settlement procedures of Article 9 if not accepted.

While a treaty may not be applied against non-Parties as such, and Article 7 did not represent a codification of international law at the time it was drafted, there is growing recognition in international law that coastal States may under certain circumstances take conservation measures of the kind prescribed in Article 7. In the 1974 Fisheries Jurisdiction Case the International Court of Justice recognized a broad duty on all States to take conservation measures with respect of high seas fisheries. The Court also recognized the special interest that coastal States have in the conservation and management of high seas fisheries adjacent to their coast. And, the Court held that States are under a mutual obligation to undertake negotiations in good faith for the equitable solution of their differences concerning their respective fishery rights. Thus, a strong case can be made that where, for instance, a coastal State has a substantial economic interest in a particular coastal fishery and that particular stock is being depleted by fishing in excess of the maximum sustainable yield, the coastal State may legally initiate negotiations and other measures as prescribed in Article 7 to protect that species pending agreement among the affected States.

It should be noted that the compulsory settlement of disputes requirement is essential to the overall structure of the procedures for implementing regulations pursuant to Article 7. At the least, for such measures to be applied to non-Parties to the 1958 Convention, the non-Parties must have access to reasonable dispute settlement procedures.

I hope these preliminary thoughts will be useful to you.

Sincerely,

MONROE LEIGH.

Mr. THURMOND. Mr. President, I rise in support of the pending amendment to S. 961 of which I am a cosponsor.

This amendment offers the Senate the best of both worlds, as it offers a multilateral approach to conserve our fisheries resources and enables us to accomplish this through current international law.

PAST U.S. POLICY

As a major power the United States has long refused to recognize unilateral fishing or territorial claims by various nations. As a signator of the 1958 Geneva Convention on Fishing and Conservation of the High Seas we have attempted to settle our fishing problems through negotiations as opposed to unilateral steps.

As I stated in my opening remarks on S. 961 on January 19, the Senate is unified in its interest in solving the fishery problem, but divided in the approach to its solution.

Based upon my understanding of this amendment, it substitutes the claims to a 200-mile fishery conservation zone [Sec. 101] for the procedures achieve conservation set forth in article 7 of the Geneva Convention.

Article 7, plus the management sections of S. 961 [Secs. 301; 302; 303; 304; 305], will enable us to initiate the steps necessary to restore our fisheries to the desired levels without the unfavorable impact of the unilateral aspects in the bill before us.

ARTICLE 7 PROVISIONS

Here are some of the provisions of article 7, which are admittedly already available to us, but lack impact of adoption by the Congress. This article provides that—

First. If a coastal nation finds its fish stocks are being depleted;

Second. That nation may adopt the unilateral steps provided for in article 7;

Third. The first step is to enter into negotiation with those nations guilty of overfishing our waters;

Fourth. If no agreement is reached in 6 months, the offended nation can unilaterally place into effect conservation measures;

Fifth. Other states will have to respect these measures if: There is a need for urgent conservation steps; the steps taken are based on scientific findings; the measures do not deal unfairly with foreign fishermen;

Sixth. These steps will remain in force unless challenged, and if challenged, stay in force until a five-member commission acts; and

Seventh. Any such commission will find for the concerned coastal nation if the measures mentioned previously have been met.

OBJECTIONS REVIEWED

Mr. President, as stated in my "Dear Colleague" letter and in my floor speech January 19, my objections to this bill were based on three points: First, fishing rights can be protected through negotiations as demonstrated during the past 2 years; second, the unilateral action of S. 961 flies in the faces of international law and past policy of this Nation, and third, serious national security problems would result if this bill passes as reported by the Commerce Committee.

Some might feel this procedure changes nothing, as article 7 has been available to us. However, it is my understanding the President has not used article 7, but would do so in view of the congressional expression represented by adoption of this amendment.

Mr. President, it is my hope the Senate will accept this amendment and give our leaders a chance to continue the tremendous progress made in recent months in meeting the legitimate problems of fish conservation.

NONSIGNATOR NATIONS

It is recognized the Soviets and Japan, two key nations involved in our fishing problems, are not signators to the Geneva Treaty. However, we expect the Law of the Sea Conferences to provide continued progress in dealing with these problems.

NEW STUDY NEEDED

It is unfortunate that only the 1973 fishing statistics were used in drawing up this bill. Much has happened since that time and recommitment to the Commerce Committee would be sound in view of those developments.

In September the ICNAF agreement resulted in a significant cut in fish taken by foreign nations off the Atlantic coast. Further, last December an important agreement was reached with Poland reference their fishing in Pacific waters.

Thus, Mr. President, it is my hope this amendment will be adopted and if not, the bill will be recommitted in order that current developments may be weighed in drawing more up-to-date legislation to deal with this problem.

Mr. STEVENS. Did he state that the substitute we are discussing has the support of the administration?

Mr. CRANSTON. Yes, it is by belief that it has the support of the administration. When we see the Department of State and the Depart-

ment of Defense supporting it, I assume that that is the administration's position.

Mr. STEVENS. Does the Senator have a letter from the Secretary of State or any qualified officer of the Department of State supporting this amendment?

Mr. CRANSTON. The legal adviser is the qualified representative of the Department of State. I have talked with officials at the Department of State; and I have noted they are in support of this amendment.

Mr. STEVENS. With due respect, I have just read the letter. I do not take it as an endorsement of the Senator's approach. Is this letter of January 27 a letter that the Senator relies upon, from the legal adviser, to indicate support for this article 7 procedure? It certainly does not say so. It does not have any evidence of being cleared by the Office of Management and Budget.

This Senator has been informed that the administration is staying out of this fight, that the President has stated he will sign this bill provided the extended time is inserted according to his request. That was reported by the New York Times. I have discussed the matter with State Department representatives only Saturday at the Law of the Sea Conference Advisory Group meeting, which my colleague attended, and there was no such statement that the administration supported this article 7 approach. This has been the child of those who supported this bill all along.

While the administration has not acted except in supporting the interim legislation, the President stated last week he would sign this bill. I would like to see anything from anyone which says the administration is in favor of this amendment.

Mr. CRANSTON. As the Senator knows, the President often signs bills that he has opposed, or that the administration has preferred may not be enacted in the form in which they are laid on the President's desk.

I do not have any document in my hand stating that the administration formally endorses this measure. If the Senator from Alaska has any document in his hand stating that the administration opposes this amendment, I wish to hear it. Then I ask in whose administration do the present State Department and DOD exist? I know what they are doing in regard to this amendment. They are telling Senators that they think it is a good amendment.

Mr. STEVENS. I think that the State Department is off trying to save its position which is in opposition to the basic bill. If they are saying that this amendment will kill the bill, they are absolutely right.

In 1974 when State Department Secretary Rusk was before our committee, we specifically asked him the question about the implementation of article VII. The chairman at that time was at the hearing and so was I. Later they submitted the answer to the question.

Let me read the question:

What is the realistic likelihood that the Convention on Fishing and Conservation of the Living Resources of the High Seas could be employed as an "interim" protection mechanism for threatened stocks of fish? Has that Convention ever been resorted to by any nation with any tangible results? Does the State Department have any plans to utilize the procedures of this treaty?

The response was:

The United States interest in coastal fisheries goes to both conservation and access by American fishermen to the supplies of fish they need to keep the fisheries

economic. The Convention on Fishing and Conservation of the Living Resources of the High Seas provides only for conservation, on a nondiscriminatory basis. Thus, it does not permit us to deal with the entire problem. Only a few of the major fishing nations other than the United States are parties to the Convention—

Mr. STEVENS continued to read:

and only a very few vessels from parties ever fish off the United States coast. We are not aware that the Convention has ever been resorted to with tangible results. We are constantly exploring actions that we can take to further protect our fisheries interests, and the Convention is often considered in this context, but we have no concrete plans to utilize it in any direct manner at this time.

That was the last comment we had from the State Department indicating that it was not utilizable, and I call the Senator's particular attention to their statement saying—and the Senator has in his normal, honest approach pointed out that this cannot be a discriminatory measure—that article 7 deals with areas beyond the territorial sea, which is 3 miles for this country.

In the Senator's State of California the action that he suggests would mean that they could not discriminate in favor of California fishermen within the 12-mile limit. Since 1966, we have discriminated in favor of American fishermen within the 12-mile limit. We entirely excluded all foreign vessels from the contiguous zone except when they are there by treaty that is duly recognized by this Senate.

My question is this: Does my friend believe that the 1958 treaty can be implemented by Executive action? It is not a self-implementing treaty. The witnesses before our committee, and I point to Mr. Samuel Levering, responded to my question, and it appears on page 766 of the hearings that we held in 1974. I asked him this question:

You agree with me that it does take legislation?

And he said:

It does. It is not a self-implementing convention. The Congress has to pass a bill saying that it shall be enforced and by whom and in what way, and with what penalties, and so on. It cannot be put in operation by the President alone, in my judgment.

He is a gentleman who is being relied upon by my colleague today as a member of the Law of the Sea Advisory Committee, and the advice we received is that this cannot be put into effect by executive action. It must be implemented by this Congress, and we must set specific conservation goals, but if we did it we would have to give up the protection we already have.

Does the Senator think that our Alaskan fishermen want to give up the protection of the 9-mile contiguous zone? I assure the Senator that this would defeat the bill, and that is why the Department of Defense, in their usual manner of dealing with Congress, has come up here and said the administration supports this amendment. I say to the Senator that I have talked to members of the administration, and they tell me there is no official position on this amendment. They still take the position that they would not like to have the 200-mile bill but that, if the time frames are extended, the President has said he probably will sign the bill.

Again, my question to my colleague is: Is that what he wants? Does he want to lose the 9-mile continuous zone that my predecessor, Senator Bartlett, with the effort of our good colleague from Washington, Senator Magnuson, achieved almost 9 years ago? Shall we take a step backward?

Mr. GRIFFIN. I wish to comment to this extent: It is asserted that we would be taking a step backward with respect to 9 miles, if we adopted this provision, and I challenge that. I do not think that is a sustainable position.

It may be true that the State Department has modified its position since 3 years ago. It has modified its position to the extent that 3 years ago it said it had no plan at that time to implement article 7 of this convention.

Then to the extent that it now would be willing to implement it, it has changed its position, I suppose, but I do not think that is anything necessarily subject to criticism. One of the main differences is that 3 years ago Congress was not ready to pass this bill, which would be in violation of our international obligations, and, unfortunately, today I am afraid that Congress would pass it unless we can get this substitute adopted.

So it is a rather practical matter. I think that as between the two positions, there is no question that the State Department would rather take the route outlined by the Senator from California, the Senator from Michigan, and others.

I wish to read briefly from the 1974 decision of the International Court of Justice on the Icelandic case, in which 10 of the justices concurred:

Two concepts have crystalized as customary law in recent years arising out of the general consensus revealed at that conference. The first is the concept of the fisheries zone, the area in which a State may claim exclusive fishery jurisdiction independently of its territorial sea.

The extension of that fishery zone up to a 12-mile limit from the base lines appears now to be generally accepted.

That is the conclusion of the scholars of international law, that as a matter of general acceptance around the world each nation or State can now assert up to 12 miles with respect to fishery jurisdiction.

Although the Senator from Alaska is asserting it, I do not know what his justification is for stating flatly that we would be giving up 9 miles of jurisdiction if we were to pass this amendment.

Mr. STEVENS. I answer in one simple statement: Article 7 specifically states that any State may take this action in an area of the high seas adjacent to its territorial sea.

The amendment specifically speaks to the area adjacent to our territorial sea. Our territorial sea is set at 3 miles.

Mr. GRIFFIN. It is interesting how technical and precise the Senator from Alaska is in enforcing our international covenants when it comes to this particular provision, but he does not wish to abide by our international obligations insofar as they concern a 200-mile zone [Sec. 101], which would be in violation of international law.

Mr. STEVENS. On the contrary—

Mr. GRIFFIN. Then, second, I do not think that these are inconsistent. I think they can be read together. The assumption that they would be in conflict is not necessarily so. The argument is there, but I think there is an equally valid argument that they can be read together and both be given effect.

Mr. STEVENS. The Senator is absolutely wrong. It is clear that under this 1958 treaty any action that a nation takes, if it is to be enforceable, must be nondiscriminatory. That has been testified to before our committee by the State Department people. That is the statement of the

experts in the area. Also, I have an article in the *Journal of Maritime Law and Commerce* which the Senator might be interested in reading.

The problem is that it is a very specific thing. The territorial sea is 3 miles, and if you implement article 7, you have to say that from the edge of the territorial sea on out, on the seas adjacent to that nation—in this instance, our Nation—you are going to take unilateral action to establish conservation measures, but they must be nondiscriminatory in terms of access. The State Department said that access is one thing; conservation is another.

When it comes to access, the Senator would require that we permit Russian fishing vessels to come within 3 miles of the shore of Kodiak. Today, they must stay 12 miles offshore.

MR. GRIFFIN. I do not accept the argument or premise of the Senator from Alaska. Our assertion of a 12-mile fishing jurisdiction does not depend on article VII. That is asserted independently of that, and they both can be read together.

MR. STEVENS. I do not disagree with that. But if we implement article VII, it must commence at the edge of the territorial sea. That is what the treaty says. With respect to taking this action, the experts have testified that it cannot be done by executive action. It is not a simple implementing treaty. It must be done by legislation. So what the Senator is saying to the President, the Secretary of Commerce, and the Secretary of the Treasury is, "Go take action that we know is illegal. When you take it, start at 12 miles, not 3, notwithstanding the fact that the treaty says that no action that is taken must start adjacent to the territorial sea."

I do not see how anyone can assert this as anything but an attempt to kill this bill. That is all there is to it.

MR. GRIFFIN. Mr. President, the Senator has accurately described the pending amendment as an instrument of those who oppose the bill to kill it by indirection because they know they do not have the votes to kill it directly. How else can anyone describe a complicated, cumbersome mechanism of this kind, which has been on the books since 1958, which never has been signed by the major fishing nations, which never has been utilized by any nation to trigger the protective devices that the treaty presumes to offer? How else could anyone describe this kind of amendment? If this amendment were adopted, it would be a fraud on the fishermen of our country.

This is my considered opinion on this amendment. It offers nothing. As I understand it—I ask the Senator if I am correct—nonsignatory nations of the 1958 treaty take nearly 100 percent of the fish within our shores. Am I correct?

MR. STEVENS. The Senator is absolutely right. Thirty-five or thirty-seven of the nations—the Senator from Washington has the exact number—that participated in that Law of the Sea Conference have ratified this convention of 1958. None is a major distant water fishing nation. Specifically, Russia, Japan, and Poland—the ones giving us the major trouble—are not parties.

MR. MUSKIE. Exactly, Russia, Japan, West Germany, Poland—all these countries that are fishing off the New England coast, that are decimating the fixed gear of our fishermen, all these countries that have not yet yielded up a single penny for the reimbursement of the damage caused. We are asked to go to a 1958 treaty, which never has pro-

tected anybody, as the source of relief to those people and their injured rights.

Mr. STEVENS. The Senator is absolutely correct.

Mr. MUSKIE. This is not a proven instrument. It has been lying around for 18 years, and it never occurred to anybody to use it as a means of protecting American fishing resources and American fishermen. Now, on the floor of the Senate, after 18 years of idleness, without ever having given protection to anybody, it is offered as the panacea and the answer to their problems.

Mr. STEVENS. Only last summer, in July of 1975, a gentleman who is in the legislative division of the Coast Guard wrote an article for the *Journal of Maritime Law and Commerce*. With regard to this convention, he said:

The Convention on Fishing and Conservation of the Living Resources of the High Seas, while it has been in force for the United States since March 1966, is a dead letter due to the lack of participation by major fishing nations.

Then he went on to say:

No enforcement machinery is established, however, to give the Convention teeth, a defect shared by the other 1958 Law of the Sea Conventions with the exception of hot pursuit in Article 23 of the Convention on the High Seas, a concept useful in other enforcement actions on the high seas.

The reason why it takes legislation to implement this is that there is no enforcement machinery in the 1958 convention. In this amendment, we are telling the President, the Secretary of Commerce, and the Secretary of State to take this action, but, "By the way, boys, when you fail, come back, because we have to pass this legislation before it can be effective."

Mr. MUSKIE. The interesting thing is that we have been urged to suspend action on this legislation because there is a Law of the Sea Conference that is going to enact an international agreement. We have been asked to rely upon that in all good faith and upon the assurance that it is going to produce a result. Apparently, those who have urged that point of view have so little faith in its prospects for success that they are asking us to accept the result of negotiations that concluded in 1958 and have never produced any relief.

I gather that no country injured by the kinds of actions we are seeking to deal with has ever sought protection under that treaty, because they know it would be fruitless. Now we are asked to substitute that as a source of relief and as a greater assurance of relief, apparently, than the Law of the Sea Conference. I gather that the supporters of this amendment have been so impressed by our reluctance to rely on the Law of the Sea Conference that they are offering this as a better source of relief than the Law of the Sea Conference. If it is not, then what can it be other than an attempt to delay, to postpone relief, to complicate the process of seeking relief, and to obfuscate the result of what we do in the Senate and in Congress with respect to this problem?

I can see that Members might be tempted to go this route of international negotiations. Senator Magnuson has been around with international negotiations in this field longer than the rest of us. I can recall when I first came to the Senate 18 years ago watching his activities, meeting in international meetings in Japan, in the Far East, in Europe, in this country, producing agreements, treaties. I suspect that he had some oversight of or at least watched the proceedings that led to the 1958 agreement. None of them has worked.

Why else do Senators think this measure is before the Senate today? Because nothing else ever has worked, including the 1958 agreement. The sponsors now seek to persuade the Senate that by putting that agreement, which never has worked, into the pending legislation, somehow we give it new life and effectiveness. If it did not work outside the confines of this legislation, it is not going to work within its confines. It is as simple as that. It is offered for only one reason: To kill the whole effort, to kill the bill, to stop us in our tracks, to force American fishermen to wait another unspecified number of years pursuant one diplomatic route after another. Those who sponsor this proposal—or some other gimmick that may be devised by them—want to rely upon international agreements which have not produced, in all the years this problem has been growing, an iota of relief for our fishermen.

Mr. STEVENS. Mr. President, I ask unanimous consent to have printed in the Record the 1958 treaties that were entered into and the nations that ratified them, together with the footnotes that indicate why some of the nations did not ratify them. This certainly backs up what the Senator from Maine has said. The 1958 conventions failed so miserably that we are back at the Law of the Sea Conference again.

After negotiating for such a long period of time, it is interesting to note that many of the parties that negotiated in 1958—incidentally, including our own Nation—refused to ratify the Protocol on Compulsory Dispute Settlements. It is not unknown for nations to be involved for years in negotiations and refuse to sign. Japan, for instance, negotiated and refused to sign the particular treaty that we are talking about right now.

I ask unanimous consent to have these printed in the Record.

CHAPTER XXI LAW OF THE SEA

1. CONVENTION ON THE TERRITORIAL SEA AND THE CONTIGUOUS ZONE—DONE AT GENEVA ON APR. 29, 1958¹

[Entry into force: Sept. 10, 1964, in accordance with article 29, Registration: Nov. 22, 1964, No. 7477, Text: United Nations, "Treaty Series," vol. 516, p. 205]

State	Signature	Ratification accession (a), notification of succession (d)
Afghanistan.....	Oct. 30, 1958.....	
Argentina.....	Apr. 29, 1958.....	
Australia.....	Oct. 30, 1958.....	May 14, 1963.
Austria.....	Oct. 27, 1958.....	
Belgium.....		Jan. 6, 1972a.
Bolivia.....	Oct. 17, 1958.....	
Bulgaria.....	Oct. 31, 1958.....	Aug. 31, 1962.
Byelorussian S.S.R.....	Oct. 30, 1958.....	Feb. 27, 1961.
Canada.....	Apr. 29, 1958.....	
China ?.....		
Colombia.....	Apr. 29, 1958.....	
Costa Rica.....	Apr. 29, 1958.....	
Cuba.....	Apr. 29, 1958.....	
Czechoslovakia.....	Oct. 30, 1958.....	Aug. 31, 1961.
Denmark.....	Apr. 29, 1958.....	Sept. 26, 1968.
Dominican Republic.....	Apr. 29, 1958.....	Aug. 11, 1964.
Fiji.....		Mar. 25, 1971d.
Finland.....	Oct. 27, 1958.....	Feb. 16, 1965.
German Democratic Republic.....		Dec. 27, 1973a.
Ghana.....	Apr. 29, 1958.....	
Guatemala.....	Apr. 29, 1958.....	
Haiti.....	Apr. 29, 1958.....	Mar. 29, 1960.
Holy See.....	Apr. 30, 1958.....	
Hungary.....	Oct. 31, 1958.....	Dec. 6, 1961.
Iceland.....	Apr. 29, 1958.....	

See footnotes at end of table.

CHAPTER XXI LAW OF THE SEA—Continued

1. CONVENTION ON THE TERRITORIAL SEA AND THE CONTIGUOUS ZONE—DONE AT GENEVA ON APR. 29, 1958¹—Continued

[Entry into force: Sept. 10, 1964, in accordance with article 29, Registration: Nov. 22, 1964, No. 7477, Text: United Nations, "Treaty Series," vol. 516, p. 205]

State	Signature	Ratification accession (a), notification of succession (d)
Iran	May 28, 1958	
Ireland	Oct. 2, 1958	
Israel	Apr. 29, 1958	Sept. 6, 1961.
Italy		Dec. 17, 1964a.
Jamaica		Oct. 8, 1965d.
Japan		June 10, 1968a.
Kenya		June 20, 1969a.
Khmer Republic		Mar. 18, 1960a.
Lesotho		Oct. 23, 1973d.
Liberia	May 27, 1958	
Madagascar		July 31, 1962a.
Malawi		Nov. 3, 1965a.
Malaysia		Dec. 21, 1960a.
Malta		May 19, 1966d.
Mauritius		Oct. 5, 1960d.
Mexico		Aug. 2, 1966a.
Nepal	Apr. 29, 1958	
Netherlands	Oct. 31, 1958	Feb. 18, 1966.
New Zealand	Oct. 29, 1958	
Nigeria		June 26, 1961d.
Pakistan	Oct. 31, 1958	
Panama	May 2, 1958	
Portugal	Oct. 28, 1958	Jan. 8, 1963.
Romania	Oct. 31, 1958	Dec. 12, 1961.
Senegal ²		Apr. 25, 1961a.
Sierra Leone		Mar. 13, 1962d.
South Africa		Apr. 9, 1963a.
Spain		Feb. 25, 1971a.
Sri Lanka	Oct. 30, 1958	
Swaziland		Oct. 16, 1970a.
Switzerland	Oct. 22, 1958	May 18, 1966.
Thailand	Apr. 29, 1958	July 2, 1968.
Tonga		June 29, 1971d.
Trinidad and Tobago		Apr. 11, 1966d.
Tunisia	Oct. 30, 1958	
Uganda		Sept. 14, 1964a.
Ukranian S.S.R.	Oct. 30, 1958	Jan. 12, 1961.
U.S.S.R.	Oct. 30, 1958	Nov. 22, 1960.
United Kingdom	Sept. 9, 1958	Mar. 14, 1960.
United States of America	Sept. 15, 1958	Apr. 12, 1961.
Uruguay	Apr. 29, 1958	
Venezuela	Oct. 30, 1958	Aug. 15, 1961.
Yugoslavia	Apr. 29, 1958	Jan. 28, 1966.

¹ The four Conventions and the Optional Protocol of Signature listed in this Chapter were prepared and opened for signature by the United Nations Conference on the Law of the Sea. The Conference was convened pursuant to resolution 1105 (XI), adopted by the General Assembly of the United Nations on Feb. 21, 1957, and met at the European Office of the United Nations at Geneva from Feb. 24 to Apr. 27, 1958. For the text of the said resolution, see "Official Records of the General Assembly, Eleventh Session, Supplement No. 17" (A 3572), p. 54. The Conference also adopted the Final Act and nine resolutions for the text of which, see United Nations, "Treaty Series," vol. 450, p. 11. For the preparatory documents and the proceedings of the Conference, see "Official Records of the United Nations Conference on the Law of the Sea," vols. I to VII, United Nations publication, Sales No. 458.V4, vols. I to VII.

² Signed on behalf of the Republic of China on Apr. 29, 1958. See Note concerning signatures, ratifications, accessions etc. on behalf of China, Preface, p. iii.

³ The Secretary-General received on June 9, 1971 a communication from the Government of Senegal denouncing this Convention as well as the Convention on the Living Resources of the High Seas, and specifying that the denunciation would take effect on the thirtieth day from its receipt. The said Communication, as well as the related exchange of correspondence between the Secretariat and the Government of Senegal, was circulated by the Secretary-General to all States entitled to become parties to the Conventions concerned under their respective clauses.

The notification of denunciation was registered by the Government of Senegal as at June 9, 1971, under Nos. 7477 and 8164 (See United Nations, Treaty Series, vol. 781).

In this connexion, a communication from the Government of the United Kingdom was received by the Secretary-General on Jan. 2, 1973, stating inter alia:

"... As regards the notification by the Government of Senegal purporting to denounce the two Conventions of 1958, the Government of the United Kingdom wish to place on record that in their view those Conventions are not susceptible to unilateral denunciation by a State which is a party to them and they therefore cannot accept the validity or effectiveness of the purported denunciation by the Government of Senegal. Accordingly, the Government of the United Kingdom regard the Government of Senegal as still bound by the obligations which they assumed when they became a party to those Conventions and the Government of the United Kingdom fully reserve all their rights under them as well as their rights and the rights of their nationals in respect of any action which the Government of Senegal have taken or may take as a consequence of the said purported denunciation...."

2. CONVENTION ON THE HIGH SEAS—DONE AT GENEVA ON APR. 29, 1958¹

[Entry into force: Sept. 30, 1962, in accordance with article 34. Registration: Jan. 3, 1963, No. 6465. Text: United Nations, "Treaty Series," vol. 450, p. 11.]

State	Signature	Ratification, accession (a), notification of succession (d)
Afghanistan	Oct. 30, 1958	Apr. 28, 1959.
Albania		Dec. 7, 1964a.
Argentina	Apr. 29, 1958	
Australia	Oct. 30, 1958	May 14, 1963.
Austria	Oct. 27, 1958	Jan. 10, 1974.
Belgium		Jan. 6, 1972a.
Bolivia	Oct. 17, 1958	
Bulgaria	Oct. 31, 1958	Aug. 31, 1962.
Byelorussian S.S.R.	Oct. 30, 1958	Feb. 27, 1961.
Canada	Apr. 29, 1958	
Central African Republic		Oct. 15, 1962a.
China ²		
Colombia	Apr. 29, 1958	
Costa Rica	Apr. 29, 1958	Feb. 16, 1972.
Cuba	Apr. 29, 1958	
Czechoslovakia	Oct. 30, 1958	Aug. 31, 1961.
Denmark	Apr. 29, 1958	Sept. 26, 1968.
Dominican Republic	Apr. 29, 1958	Aug. 11, 1964.
Fiji		Mar. 25, 1971d.
Finland	Oct. 27, 1958	Feb. 16, 1965.
France	Oct. 30, 1958	
German Democratic Republic		Dec. 27, 1973a.
Germany, Federal Republic of ^{3a}	Oct. 30, 1958	July 26, 1973.
Ghana	Apr. 29, 1958	
Guatemala	Apr. 29, 1958	Nov. 27, 1961.
Haiti	Apr. 29, 1958	Mar. 29, 1960.
Holy See	Apr. 30, 1958	
Hungary	Oct. 31, 1958	Dec. 6, 1961.
Iceland	Apr. 29, 1958	
Indonesia	May 8, 1958	Aug. 10, 1961.
Iran	May 28, 1958	
Ireland	Oct. 2, 1958	
Israel	Apr. 29, 1958	Sept. 6, 1961.
Italy		Dec. 17, 1964a.
Jamaica		Oct. 8, 1965d.
Japan		June 10, 1968a.
Kenya		June 20, 1969a.
Khmer Republic		Mar. 18, 1960a.
Lebanon	May 29, 1958	
Lesotho		Oct. 23, 1973d.
Liberia	May 27, 1958	
Madagascar		July 31, 1962a.
Malawi		Nov. 3, 1965a.
Malaysia		Dec. 21, 1960a.
Mauritius		Oct. 5, 1970d.
Mexico		Aug. 2, 1966a.
Nepal	Apr. 29, 1958	Dec. 28, 1962.
Netherlands	Oct. 31, 1958	Feb. 18, 1966.
New Zealand	Oct. 29, 1958	
Nigeria		June 26, 1961d.
Pakistan	Oct. 31, 1958	
Panama	May 2, 1958	
Poland	Oct. 31, 1958	June 29, 1962.
Portugal	Oct. 28, 1958	Jan. 8, 1963.
Romania	Oct. 31, 1958	Dec. 12, 1961.
Senegal		Apr. 25, 1961a.
Sierra Leone		Mar. 13, 1962d.
South Africa		Apr. 9, 1963a.
Spain		Feb. 25, 1971a.
Sri Lanka	Oct. 30, 1958	
Swaziland		Oct. 16, 1970a.
Switzerland	May 24, 1958	May 18, 1966.
Thailand	Apr. 29, 1958	July 2, 1968a.
Tonga		June 29, 1971d.
Trinidad and Tobago		Apr. 11, 1966d.
Tunisia	Oct. 30, 1958	
Uganda		Sept. 14, 1964a.
Ukrainian S.S.R.	Oct. 30, 1958	Jan. 12, 1961.
U.S.S.R.	Oct. 30, 1958	Nov. 22, 1960.
United Kingdom	Sept. 9, 1958	Mar. 19, 1960.
United States of America	Sept. 15, 1958	Apr. 12, 1961.

See footnotes at end of table.

2. CONVENTION ON THE HIGH SEAS—DONE AT GENEVA ON APR. 29, 1958¹—Continued

[Entry into force: Sept. 30, 1962, in accordance with article 34. Registration: Jan. 3, 1963, No. 6465. Text: United Nations, "Treaty Series," vol. 450, p. 11.]

State	Signature	Ratification, accession (a), notification of succession (d)
Upper Volta.....	.....	Oct. 4, 1965a.
Uruguay.....	Apr. 29, 1958.....	.....
Venezuela.....	Oct. 30, 1958.....	Aug. 15, 1961.
Yugoslavia.....	Apr. 29, 1958.....	Jan. 28, 1966.

¹ See footnote 1, p. 435.

² Signed on behalf of the Republic of China on Apr. 29, 1958. See Note concerning signatures, ratifications, accessions, etc. on behalf of China, Preface, p. iii.

^{3a} With the following statement: "... The said Convention . . . shall also apply to Berlin (West) with effect from the date on which it enters into force for the Federal Republic of Germany."

In this connection, the Secretary-General received on Nov. 5, 1973, the following communication from the Government of the Union of Soviet Socialist Republics:

The Soviet Union can take note of the declaration by the Federal Republic of Germany concerning application to Berlin (West) of the Convention on the High Seas . . . only on the understanding that such application conforms to the Quadripartite Agreement of Sept. 3, 1971, and is subject to observance of the established procedures.

Communications identical in essence, *mutatis mutandis*, were received from the Government of Czechoslovakia (on Dec. 6, 1973) and from the Government of the Byelorussian S.S.R. (on Feb. 13, 1974). Furthermore, on Dec. 27, 1973, the following communication was received on the same subject from the Government of the German Democratic Republic:

In respect of the application of the Convention on the High Seas to Berlin (West), the German Democratic Republic takes note of the Declaration on this matter made by the Federal Republic of Germany, with the reservation that the provisions of this Convention are to be applied to Berlin (West) in accordance with the Quadripartite Agreement of Sept. 3, 1971, between the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain, and Northern Ireland, the United States of America and the French Republic according to which Berlin (West) is not a part of the Federal Republic of Germany and may not be governed by it.

3. CONVENTION ON FISHING AND CONSERVATION OF THE LIVING RESOURCES OF THE HIGH SEAS—DONE AT GENEVA ON APR. 29, 1958¹

[Entry into force: Mar. 20, 1966, in accordance with article 18. Registration: Mar. 20, 1966, No. 8164. Text: United Nations, "Treaty Series," vol. 559, p. 285]

State	Signature	Ratification, accession (a), notification of succession (d)
Afghanistan.....	Oct. 30, 1958.....	.....
Argentina.....	Apr. 29, 1958.....	.....
Australia.....	Oct. 30, 1958.....	May 14, 1963.
Belgium.....	.....	Jan. 6, 1972a.
Bolivia.....	Oct. 17, 1958.....	.....
Canada.....	Apr. 29, 1958.....	.....
China ².....	.....	.....
Colombia.....	Apr. 29, 1958.....	Jan. 3, 1963.
Costa Rica.....	Apr. 29, 1958.....	.....
Cuba.....	Apr. 29, 1958.....	.....
Denmark.....	Apr. 29, 1958.....	Sept. 26, 1968.
Dominican Republic.....	Apr. 29, 1958.....	Aug. 11, 1964.
Fiji.....	.....	Mar. 25, 1971d.
Finland.....	Oct. 27, 1958.....	Feb. 16, 1965.
France.....	Oct. 30, 1958.....	Sept. 18, 1970.
Ghana.....	Apr. 29, 1958.....	.....
Haiti.....	Apr. 29, 1958.....	Mar. 29, 1960.
Iceland.....	Apr. 29, 1958.....	.....
Indonesia.....	May 8, 1958.....	.....
Iran.....	May 28, 1958.....	.....
Ireland.....	Oct. 2, 1958.....	.....
Israel.....	Apr. 29, 1958.....	.....
Jamaica.....	.....	Apr. 16, 1964d.
Kenya.....	.....	June 20, 1969a.
Khmer Republic.....	.....	Mar. 18, 1960a.
Lebanon.....	May 29, 1958.....	.....
Lesotho.....	.....	Oct. 23, 1973d.
Liberia.....	May 27, 1958.....	.....
Madagascar.....	.....	July 31, 1962a.
Malawi.....	.....	Nov. 3, 1965a.
Malaysia.....	.....	Dec. 21, 1960a.
Mauritius.....	.....	Oct. 5, 1976d.
Mexico.....	.....	Aug. 2, 1966a.
Nepal.....	Apr. 29, 1958.....	.....
Netherlands.....	Oct. 31, 1958.....	Feb. 18, 1966.
New Zealand.....	Oct. 29, 1958.....	.....
Nigeria.....	.....	June 26, 1961d.

See footnotes at end of table.

3. CONVENTION ON FISHING AND CONSERVATION OF THE LIVING RESOURCES OF THE HIGH SEAS—DONE AT GENEVA ON APR. 29, 1958 —Continued

[Entry into force: Mar. 20, 1966, in accordance with article 18. Registration: Mar. 20, 1966, No. 8164. Text: United Nations, "Treaty Series," vol. 559, p. 285]

State	Signature	Ratification, accession (a), notification of succession (d)
Pakistan	Oct. 31, 1958	
Panama	May 2, 1958	
Portugal	Oct. 28, 1958	Jan. 8, 1963.
Senegal ¹		Apr. 25, 1961a
Sierra Leone		Mar. 13, 1962d.
South Africa		Apr. 9, 1963a.
Spain		Feb. 25, 1971a.
Sri Lanka	Oct. 30, 1958	
Switzerland	Oct. 22, 1958	May 18, 1966.
Thailand	Apr. 29, 1958	July 2, 1968.
Tonga		June 29, 1971d.
Trinidad and Tobago		Apr. 11, 1966d.
Tunisia	Oct. 30, 1958	Sept. 14, 1964a.
Uganda		
United Kingdom	Sept. 9, 1958	Mar. 14, 1960.
United States of America	Sept. 15, 1958	Apr. 12, 1961.
Upper Volta		Oct. 4, 1965a.
Uruguay	Apr. 29, 1958	
Venezuela	Oct. 30, 1958	July 10, 1963.
Yugoslavia	Apr. 29, 1958	Jan. 28, 1966

¹ See footnote 1, p. 435.

² Signed on behalf of the Republic of China on Apr. 29, 1958. See Note concerning signatures, ratifications, accessions, etc. on behalf of China, Preface, p. iii.

³ See footnote 3, p. 436.

4. CONVENTION ON THE CONTINENTAL SHELF—DONE AT GENEVA ON APR. 29, 1958 ¹

[Entry into force: June 10, 1964, in accordance with art. 11. Registration: June 10, 1964, No. 7302. Text: United Nations, "Treaty Series," vol. 499, p. 311]

State	Signature	Ratification accession (a), notification of succession (d)
Afghanistan	Oct. 30, 1958	
Albania		Dec. 7, 1964a.
Argentina	Apr. 29, 1958	
Australia	Oct. 30, 1958	May 14, 1963.
Bolivia	Oct. 17, 1958	
Bulgaria		Aug. 31, 1962a.
Byelorussian S.S.R.	Oct. 31, 1958	Feb. 27, 1961.
Canada	Apr. 29, 1958	Feb. 6, 1970.
Chile	Oct. 31, 1958	
China ²		
Colombia	Apr. 29, 1958	Jan. 8, 1962.
Costa Rica	Apr. 29, 1958	Feb. 16, 1972.
Cuba	Apr. 29, 1958	
Cyprus		Apr. 11, 1974a.
Czechoslovakia	Oct. 31, 1958	Aug. 31, 1961.
Denmark	Apr. 29, 1958	June 12, 1963.
Dominican Republic	Apr. 29, 1958	Aug. 11, 1964.
Ecuador	Oct. 31, 1958	
Fiji		Mar. 25, 1971d.
Finland	Oct. 27, 1958	Feb. 16, 1965.
France		June 14, 1965a.
German Democratic Republic		Dec. 27, 1973a.
Germany, Federal Republic of	Oct. 30, 1958	
Ghana	Apr. 29, 1958	
Greece		Nov. 6, 1972a.
Guatemala	Apr. 29, 1958	Nov. 27, 1961.
Haiti	Apr. 29, 1958	Mar. 29, 1960.
Iceland	Apr. 29, 1958	
Indonesia	May 8, 1958	
Iran	May 28, 1958	
Ireland	Oct. 2, 1958	
Israel	Apr. 29, 1958	Sept. 6, 1961.
Jamaica		Oct. 8, 1965a.
Kenya		June 20, 1965a.
Khmer Republic		Mar. 18, 1961a.

See footnotes at end of table.

4. CONVENTION ON THE CONTINENTAL SHELF—DONE AT GENEVA ON APR. 29, 1958¹—Continued

[Entry into force: June 10, 1964, in accordance with art. 11, Registration: June 10, 1964, No. 7302. Text: United Nations, "Treaty Series," vol. 499, p. 311]

State	Signature	Ratification accession (a), notification of succession (d)
Lebanon.....	May 29, 1958.....	Oct. 23, 1974d.
Lesotho.....		
Liberia.....	May 27, 1958.....	July 31, 1962a.
Madagascar.....		Nov. 3, 1965a.
Malawi.....		Dec. 21, 1960a.
Malaysia.....		May 19, 1966d.
Malta.....		Oct. 5, 1970d.
Mauritius.....		Aug. 2, 1966a.
Mexico.....		
Nepal.....	Apr. 29, 1958.....	
Netherlands.....	Oct. 31, 1958.....	Feb. 18, 1966.
New Zealand.....	Oct. 29, 1958.....	Jan. 18, 1965.
Nigeria.....		Apr. 28, 1971a.
Norway.....		Sept. 9, 1917a.
Pakistan.....	Oct. 31, 1958.....	
Panama.....	May 2, 1958.....	
Peru.....	Oct. 31, 1958.....	
Poland.....	Oct. 31, 1958.....	June 29, 1962.
Portugal.....	Oct. 28, 1958.....	Jan. 8, 1963.
Romania.....		Dec. 12, 1961a.
Senegal.....		Apr. 25, 1961a.
Sierra Leone.....		Nov. 25, 1966a.
South Africa.....		Apr. 9, 1963a.
Spain.....		Feb. 25, 1971a.
Sri Lanka.....	Oct. 30, 1958.....	
Swaziland.....		Oct. 16, 1970a.
Sweden.....		June 1, 1966a.
Switzerland.....	Oct. 22, 1958.....	May 18, 1966.
Thailand.....	Apr. 29, 1958.....	July 2, 1968.
Tonga.....		June 29, 1971d.
Trinidad and Tobago.....		July 11, 1968a.
Tunisia.....	Oct. 30, 1958.....	
Uganda.....		Sept. 14, 1964a.
Ukrainian S.S.R.....	Oct. 31, 1958.....	Jan. 12, 1961.
U.S.S.R.....	Oct. 31, 1958.....	Nov. 22, 1960.
United Kingdom.....	Sept. 9, 1958.....	May 11, 1964.
United States of America.....	Sept. 15, 1958.....	Apr. 12, 1961.
Uruguay.....	Apr. 29, 1958.....	
Venezuela.....	Oct. 30, 1958.....	Aug. 15, 1961.
Yugoslavia.....	Apr. 29, 1958.....	Jan. 28, 1966.

¹ See footnote 1, p. 435.

² Signed and ratified on behalf of the Republic of China on Apr. 29, 1958, and Oct. 12, 1970, respectively. See Note concerning signatures, ratifications, accessions, etc. on behalf of China, Preface, p. iii.

In communications addressed to the Secretary-General with reference to the above-mentioned ratification the Permanent Missions to the United Nations of Bulgaria, Poland, Romania, the Ukrainian S.S.R. and the Union of Soviet Socialist Republics stated that the said ratification was illegal since the so-called "Government of China" represented no one and did not have the right to speak on behalf of China, there being only one Chinese State in the world, the People's Republic of China, and one Government entitled to represent it, the Government of the People's Republic of China.

In letters addressed to the Secretary-General concerning the above-mentioned communications, the Permanent Representative of China to the United Nations stated the following: "The Republic of China, a sovereign state and member of the United Nations, attended the first United Nations Conference on the Law of the Sea in 1958, contributed to the formulation of the Convention on the Continental Shelf, signed the said Convention on Apr. 29, 1958, and duly deposited its instrument of ratification with the Secretary-General of the United Nations on Oct. 12, 1970. Any statement relating to the said Convention that is incompatible with or derogatory to the legitimate position of the Government of the Republic of China shall in no way affect the rights and obligations of the Republic of China under the said Convention."

15. OPTIONAL PROTOCOL OF SIGNATURE CONCERNING THE COMPULSORY SETTLEMENT OF DISPUTES—DONE AT GENEVA ON APR. 29, 1958¹

[Entry into force: Sept. 30, 1962. Registration: Jan. 3, 1963, No. 6466. Text: United Nations, "Treaty Series," vol. 450, p. 169]

State	Signatures affixed with reservation as to ratification ²	Signature affixed without reservation as to ratification(s) ² ratification, notification of succession (d)
Australia.....		May 14, 1963s*.
Austria.....	Oct. 27, 1958.....	
Belgium.....		Jan. 6, 1972s*.

See footnotes at end of table.

5. OPTIONAL PROTOCOL OF SIGNATURE CONCERNING THE COMPULSORY SETTLEMENT OF DISPUTES—DONE AT GENEVA ON APR. 29, 1958—Continued

[Entry into force: Sept. 30, 1962. Registration: Jan. 3, 1963, No. 6466. Text: United Nations, "Treaty Series," vol. 450 p. 169]

State	Signatures affixed with reservation as to ratification ²	Signature affixed without reservation as to ratification(s) ¹ ratification, notification of succession (d)
Bolivia.....		Oct. 17, 1958s.
Canada.....	Apr. 29, 1958.....	
China ^{2a}		Apr. 29, 1958s*.
Colombia ³		Apr. 29, 1958s.
Costa Rica.....		Apr. 29, 1958s.
Cuba.....	Apr. 29, 1958.....	Sept. 26, 1969*.
Denmark.....		Apr. 29, 1958s*.
Dominican Republic.....		Oct. 27, 1958s.
Finland.....		Feb. 16, 1965*.
France.....		Oct. 30, 1958s*.
Germany, Federal Republic of ⁴		Oct. 30, 1958s.
Ghana.....		July 26, 1973*.
Haiti.....		Apr. 29, 1958s.
Holy See.....		Apr. 29, 1958s.
Indonesia.....	May 8, 1958 ⁴	Mar. 29, 1960*.
Israel.....	Apr. 29, 1958.....	Apr. 30, 1958s.
Khmer Republic.....	Jan. 22, 1970.....	
Liberia.....		May 27, 1958s.
Madagascar.....		Aug. 10, 1962s*.
Malawi.....		Dec. 17, 1965s*.
Malaysia.....		May 1, 1961s*.
Malta.....		May 19, 1964*.
Mauritius.....		Oct. 5, 1970d*.
Nepal.....		Apr. 29, 1958s*.
Netherlands.....	Oct. 31, 1958.....	Feb. 18, 1966*.
New Zealand.....		Oct. 29, 1948s*.
Pakistan.....		Nov. 6, 1958s.
Panama.....		May 2, 1958s.
Portugal.....	Oct. 28, 1958.....	Jan. 8, 1963*.
Sierra Leone.....		Feb. 14, 1963s*.
Sri Lanka.....		Oct. 30, 1958s.
Sweden.....	June 1, 1966.....	June 28, 1966*.
Switzerland.....	May 24, 1958.....	May 18, 1966*.
Uganda.....		Sept. 15, 1964s*.
United Kingdom.....		Sept. 9, 1958s*.
United States of America ⁵	Sept. 15, 1958.....	
Uruguay.....		Apr. 29, 1958s.
Yugoslavia.....	Apr. 29, 1958.....	Jan. 28, 1966*.

¹ See footnote 1, p. 435.

² Article V of the Protocol provides that the latter "shall remain open for signature by all States who become Parties to any Convention on the Law of the Sea and is subject to ratification, where necessary, according to the constitutional requirements of the signatory States." Consequently, the signatures listed above appear in the second or the third column according to whether they have been affixed or not with an indication that they were subject to ratification. It will be noted, however, that certain signatures, although they were affixed without reservation as to ratification, were followed by the deposit of an instrument of ratification; in such cases, the two corresponding dates will be found in the third column.

Signatures affixed without reservation as to ratification, or ratifications, etc., by States which—being already, or having subsequently become, parties to one or more Conventions on the Law of the Sea—should be considered as parties to the Protocol, have been identified by an asterisk.

^{2a} Signature affixed without reservation as to ratification on behalf of the Republic of China on Apr. 29, 1958. See Note concerning signatures, ratifications, accessions, etc. on behalf of China, Preface, p. iii.

³ In signing the Optional Protocol, the delegation of Colombia reserves the obligations of Colombia arising out of conventions concerning the peaceful settlement of disputes which Colombia has ratified and out of any previous conventions concerning the same subject which Colombia may ratify.

^{4a} With the following declaration:

"... The ... Optional Protocol shall also apply to Berlin (West) with effect from the date on which it enters into force for the Federal Republic of Germany."

In this connection, the Secretary-General received on Nov. 5, 1973 the following communication from the Government of the Union of Soviet Socialist Republics:

The Soviet Union can take note of the declaration by the Federal Republic of Germany concerning application to Berlin (West) of ... the Optional Protocol of signature concerning the Compulsory Settlement of Disputes only on the understanding that such application conforms to the Quadripartite Agreement of Sept. 3, 1971 and is subject to observance of the established procedures.

Communications identical in essence were received from the Governments of Czechoslovakia (on Dec. 6, 1973) and the Byelorussian SSR (on Feb. 13, 1974).

⁴ In a communication received on Dec. 24, 1958, the Government of Indonesia informed the Secretary-General that according to the constitutional requirements of Indonesia, the signature affixed on its behalf to this Protocol is subject to ratification.

⁵ In a communication received on June 10, 1963, the Government of the United States of America informed the Secretary-General that the Protocol "will not enter into force with respect to the United States until the Protocol has been ratified on the part of the United States and instrument of ratification has been deposited".

Mr. STEVENS. I thank the Senator from Maine for his cooperation. This appears to me to be, again—and I hope everybody will keep it in mind—a last-ditch effort to give some people who are on the fence a sort of safe vote to put this thing on ice. It will put it on ice for many years, because it is a procedure which is predestined to failure.

It does not even comply with the treaty itself. Were the President to carry out the authority of this amendment, we would be thrown out of the international court the minute we walked in, because it does not even comply with the procedures set forth in article VII itself.

Mr. CRANSTON. Mr. President, it is not my desire to scuttle the intent of the supporters of this bill. I share their intent. I desire to protect the resources, fish and otherwise, off the coast of our country. There is a convention on the Continental Shelf in regard to crab fishing that has been used. It has worked effectively. That sets a precedent for the use of the Geneva Treaty that we now would like to rely upon.

The Senator from Maine said that that has never worked. Unfortunately, this Nation has never tried to make it work. We have never had effective international law because nations have not paid enough attention to international law. We now propose to use a mechanism created for that purpose, to start us moving in the direction of effective law in the world.

I now yield to the Senator from Alaska, who has played such a courageous and effective part in this whole struggle on this measure.

Mr. MAGNUSON. Things have been said here today about who supports the Senate bill and who does not support it. It was my understanding that the executive, the President himself, supported the 200-mile limit. He said so in Maine, he said so in Seattle, he said so in New Jersey. But he said, "But, I would like a little more time for the Law of the Sea Conference to do something."

In the bill, we have provided a year. I must assume—I have not talked to him lately about it—that that would suffice for him to sign the bill. He has never talked about this particular amendment. I do not know that they would understand it if they looked at it, it is so complicated.

There is just one thing I want to say: In the 1958 agreement, no matter what kind of agreement we might come to, if we can revive a dead horse after 18 years, it can only be enforced by the parties to the agreement. None of the people we are talking about that violate our shores are parties to this agreement, and they are not going to be parties to it. Japan is not going to sign this. Russia is not going to sign this, if we revive this whole dead horse. But the President of the United States has said emphatically, on three occasions that I know of, that he is for a 200-mile limit, but we ought to give the Law of the Sea more time to see if they can reach an agreement. I thought that is what this is all about—not a 1958 treaty.

The 1958 convention, of course, is only binding on ratifying nations, none of whom fish off our shores. Most of them do not even have a seacoast, or a lot of them.

I think we ought to get this clear: All the talk between the administration and even the State Department and some of the agencies of the State Department, who apparently speak for him around here,

have directed their talk about, yes, the 200-mile limit is good, yes, we ought to protect our fisheries on our shores, but maybe we ought to have a little more time to see if we can reach an agreement, starting in New York on March 29.

This has been going on, as the Senator from California knows, a long time, has it not?

Mr. CRANSTON. Yes.

Mr. MAGNUSON. Eight different conferences now that I know of. The first one I attended—it was 11 years ago—the same people were down there arguing against the 12-mile limit, and that if we gave sufficient time, gave them one more chance—that is what the Senator from Alaska has talked with me about, privately; Let us have one more chance. He is convinced that maybe they might do something. So we said fine.

Now they are bringing in this old dead horse, the 1958 agreement, which no country will—I bet it will take 10 years before we get the right people to sign this, if we could revive it. I make that wager.

I have gone through it. I thought all we had to do here is, all of us, take our objective to see if we can protect our fishing and give the Law of the Sea Conference a chance, which everybody swears is the place it should be done. That is not what the people on that side have said, that it should be done in the Law of the Sea Conference.

Now they are gutting the Law of the Sea. What is the use of having the conference in March, if we are going to try to revive this?

Mr. STEVENS. I want to be sure we know what we are talking about, so I just called the White House and again checked. The matter again went to the White House this morning, and the White House says the administration is not in favor of this position. I did not talk with the President, but with his assistant. This does not have the administration's support. The President still maintains his request for time, which would amount to a year after the bill becomes effective. That is still a matter we have to discuss with the Senator from Washington. But the problem of time is another matter.

This article 7 approach does not have the support of the administration, and anybody who so represents, I should like to have him answer to the fellow who occupies the Oval Office. We are trying to work out this other agreement to meet his approval.

Mr. CRANSTON. It may be time to have another Saturday afternoon massacre, because there are two Cabinet members whose people are in support of this amendment. If this administration is, once again, in disarray, that is a problem more for the people on the other side of the aisle than for the people on this side of the aisle.

I ask unanimous consent, without taking more time from the Senator from Alaska, to have printed in the record at this point a brief extract from the report of the Committee on Foreign Relations which indicates the following:

The executive branch strongly opposes any unilateral extension of United States jurisdiction over fisheries on an interim or any other basis.

Then it goes on to quote the Secretary of State, Mr. Kissinger, in words that plainly indicate opposition to anything like the bill in its present form and seem to me to plainly indicate support for an approach like that in the amendment we have offered.

EXECUTIVE BRANCH VIEWS

The Executive branch strongly opposes any unilateral extension of U.S. jurisdiction over fisheries on an interim or any other basis. The Administration's basic position was set forth by Secretary Kissinger in a speech concerning the problems facing the United Nations Third Conference on the Law of the Sea, delivered to the American Bar Association's Annual Convention in Montreal on August 11, 1975:

The urgency of the problem is illustrated by disturbing developments which continue to crowd upon us. Most prominent is the problem of fisheries.

The United States cannot indefinitely accept unregulated and indiscriminate foreign fishing off its coasts. Many fish stocks have been brought close to extinction by foreign overfishing. We have recently concluded agreements with the Soviet Union, Japan, and Poland which will limit their catch and we have a long and successful history of conservation agreements with Canada. But much more needs to be done.

Many within Congress are urging us to solve this problem unilaterally. A bill to establish a 200-mile fishing zone passed the Senate last year; a new one is currently before the House.

The Administration shares the concern which has led to such proposals. But unilateral action is both extremely dangerous and incompatible with the thrust of the negotiations described here. The United States has consistently resisted the unilateral claims of other nations, and others will almost certainly resist ours. Unilateral legislation on our part would almost surely prompt others to assert extreme claims of their own. Our ability to negotiate an acceptable international consensus on the economic zone will be jeopardized. If every state proclaims its own rules of law and seeks to impose them on others, the very basis of international law will be shaken, ultimately to our own detriment.

Mr. MAGNUSON. It seems inconsistent with what I understand.

Mr. GRAVEL. If I may have the floor at this time, to give some kind of rebuttal to these claims. Let me state that there is no effort to gut the bill. All along, the proponents of the bill have said that this is a conservation measure. If it is a conservation measure, the Cranston-Griffin amendment makes it just that. It limits it to conservation. Therefore, it should not upset the proponents of the bill if that is what happens.

I do not understand the degree of concern that they have. They start with the rhetoric that this is not legal, is not going to work; it is a dead letter; it has never been used.

They have for weeks and months been saying that a unilateral taking by this country, by force, of 200 miles out to sea is legal. Now they say this action, which rests on a treaty signed by 34 nations, which applies equally to foreigners and domestic people alike, and only deals with conservation, is illegal.

Well, you cannot have it both ways. If this is illegal, yours is illegal because yours is more extreme, and yours does not have a treaty to back it up.

The question now revolves around whether or not you can enforce it on people who are not signatories to this Convention. And the answer to that is really very, very simple. If they do not want to abide by it, and they have not signed the Convention, you have got no choice but to enforce it exactly the way you enforce the 200 miles—with gunboats. That is all that is left to you.

But when you have a sanction of international law—and many feel if this case went to the International Court, their decision would be

favorable. But we lose sight of one thing. They say this is going to be drawn out and it has no immediate impact. Under the treaty you place into motion immediately your conservation practices, and then you litigate; in other words, you have the immediate benefit of conserving your fish stocks now, and then you go litigate. And if it takes 3 years in the International Court, if it takes 5 years in negotiation, it means you have laid down conservation rules, and the rest of the world has to abide by them until they seek succor in the courts. If they win in the courts, then we would obviously have to back away.

But the treaty is very specific. It says if you get the scientific proof to back up your cause, your cause is just. So if we are so secure in our view that these fish are being depleted, and we want to save them, all we have to do is lay out a plan and go do it, just plain go do it, and if Japan does not like it or the Soviet Union does not like it, they can take you to court. If they do not like that process then they will have to do exactly to you what you are doing to them under the 200-mile limit—they will have to look at you or invade with men-of-war. It is just that simple.

Mr. GRAVEL. I will be happy to yield.

Mr. MAGNUSON. If the Senator from Alaska thinks they are going to take us to court because they cannot fish off our shores—

Mr. GRAVEL. Why not?

Mr. MAGNUSON. That is Alice-in-Wonderland.

Mr. GRAVEL. Is there something unusual about the Soviet Union wanting to go to the International Court?

Mr. MAGNUSON. There is a lot unusual about them. They would not take us to court about that.

Mr. GRAVEL. Why not? The Senator has made a statement. Why would not the Soviet Union go to the International Court?

Mr. MAGNUSON. Because they have not signed the treaty. They have no standing.

Mr. GRAVEL. Wait a minute, they do have standing. If you read this treaty very closely, you will see you do not have to be a party to the treaty to take the issue to court. I would beg my colleagues to reread the treaty very closely. If they cannot do that I will underline the section for them.

But, going back to the point I made, if anybody disagrees with what we lay down—understand this treaty is a vehicle under law for initiating a unilateral act. The unilateral act deals with conservation. What my colleagues are trying to do is to initiate by this country a unilateral act which most experts tell us is not legal.

When my colleagues tell us about the treaty, and we have very strong views—I would be happy to yield to my colleague.

The Senate continued with the consideration of the bill (S. 961) to extend pending international agreement, the fisheries management responsibility and authority of the United States over the fish in the ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

Mr. GRAVEL. Mr. President, with respect to the statement made by the Senator from Washington concerning the Soviet Union, the Soviet

Union at the Law of the Sea Conference has already accepted dispute settlement procedures. So there is no reason to expect that the Soviet Union, like any other nation, would not first seek recourse to the International Court. That is exactly what the Icelandic and the British people did with their dispute. They went to court. One lost, the Icelandic people lost, their case in the court. And now they have unilaterally, through force of arms, taken certain acts. But at least they tried to resolve it in a legal fashion.

The fact that the loser did not want to abide by the law is another matter, but that is exactly the situation that would exist with the Law of the Sea before the fact, that is, by moving unilaterally. Nobody is going to take us to the International Court because we have taken on the 200-mile jurisdiction. What they are going to do is either accept our laws as we have set them up or break them, and if they break them, they are going to move unilaterally. And that is the great tragedy—that Congress may well be prepared to extend jurisdiction to 200 miles, but the same Congress repeatedly has denied the President the Executive, the wherewithal to go out and enforce this.

I think if we are to be honest and show some degree of integrity in this regard, we ought to make the legislation exempt from the War Powers Act. That is what Congress ought to do, because there is nobody on this floor or in this Congress who is going to back up one bit the 200-mile claim.

Let me go to the other facet on this. I have in front of me a telegram by the chief negotiator of the 1958 Convention, a person generally considered the father of the Law of the Sea. He is Arthur Dean. This is what it says:

JANUARY 22, 1976.

Senator MIKE GRAVEL,
Senate Office Building,
Washington, D.C.:

Believe implementation of article seven of Geneva Convention on Fishing and Conservation of Living Resources on High Seas as adopted April 29, 1958 would be consistent with the U.S.A.'s international legal obligations. While Japan and Russia did not sign this treaty, it is my understanding that they have agreed to it in practice, and in view of development in state practice it largely reflects customary international law. Proviso clause in paragraph one of article seven expressly contemplates such implementation or negotiations.

Regards,

ARTHUR H. DEAN.

This means you can negotiate and work it out with parties not signatory to this Convention.

My colleagues stand up and say this would not be accepted in the House, and this is not a procedure to take, and they then put a letter on our desks which states a similar measure was considered and soundly rejected in the House Merchant Marine and Fisheries Committee and the Senate Commerce Committee. It may have been soundly rejected in committee, but in the House of Representatives of the United States of America and in the bill, H.R. 200, that was sent over here, in the bill dealing with this subject, what do you think they did? They used article 7. When they got beyond the 200 miles—of course, the Senate bill states anadromous fish are protected everywhere they roam. [Sec. 102(a)] I have repeatedly made the statement that this is nothing but cosmetic in order to entice some innocent, unknowing

fishermen to support this legislation. But, in point of fact, we cannot do anything about the salmon beyond 200 miles, and the House was candid and straightforward enough to recognize this. So they did not use some platitude saying, "Well, this covers that area."

Do you know what they did on page 19 of their bill? They instituted an article 7.

The PRESIDING OFFICER (Mr. Taft). All of the time of the proponents of the amendment has expired.

Mr. GRAVEL. I think the case has been adequately made, Mr. President, and we will rest until tomorrow.

Mr. STEVENS. Mr. President, I think since the letter we have placed on the desks has been partially read, we ought to just read it into the RECORD. It is not very long, and it sums up our position on this.

Let me point out again the letter states:

The United States has ratified but has never implemented this 1958 treaty. To our knowledge, none of its mechanisms have ever been utilized by any nation since it came into force in 1966. On May 3, 1974, Kenneth Rush, the Acting Secretary of the Department of State, stated before the Senate Commerce Committee that the Department had no plans whatever to utilize this treaty for protecting threatened stocks of fish. In fact, because the terms of the 1958 Convention require that management measures be implemented on a non-discriminatory basis, the United States would lose whatever preferential rights we have achieved under existing treaties and agreements.

The amendment also speaks in terms of adopting emergency conservation measures in areas of the ocean adjacent to the territorial sea in the manner provided for in the treaty. However, its drafters failed to note that we already have a 12-mile jurisdiction limit for fisheries. This amendment would be a quit-claim of existing management rights in this 12-mile limit. Such a result is absolutely unacceptable.

I again ask unanimous consent that the full text of our letter be printed in the Record. It is signed by our chairman, Senator Magnuson, by Senator Kennedy, Senator Muskie, Senator Packwood, Senator Pastore, and myself.

There being on objection, the letter was ordered to be printed in the Record, as follows:

U.S. SENATE,
Washington, D.C., January 27, 1976.

DEAR COLLEAGUE: We urge you to vote against the Cranston-Gravel amendment to the Magnuson Fisheries Management and Conservation Act (S. 691). This amendment is totally unacceptable to the sponsors of this legislation because: (1) a similar measure was considered and soundly rejected in both the House Merchant Marine and Fisheries Committee and the Senate Commerce Committee during consideration of 200-mile limit legislation; (2) the Department of State has testified in opposition to this same approach to fisheries conservation; (3) the amendment would create an inordinately time-consuming process which could conceivably take as long to implement as it would to achieve a new Law of the Sea agreement; (4) as drafted, the amendment would subject domestic and foreign fishing within the existing U.S. 12-mile limit to an international treaty intended to cover fishing on the high seas; and (5) the basis of the amendment is a 1958 Convention which has failed to achieve consensus support in the world and which several major fishing nations, such as the U.S.S.R. and Japan, have refused to sign.

The "Article 7" approach is based upon the 1958 Geneva Convention on Fishing and Conservation of the living resources of the High Seas. Use of this unproven method of protecting our fisheries resources was suggested well over three years ago in hearings on the earlier version of S. 961 before the Senate Committee on Commerce. This approach gained negligible support. During House debate over the counterpart bill (H.R. 200), the House Merchant Marine and Fisheries

Committee also soundly rejected a bill based on Article 7 of the Convention. In short, the substance of this amendment has already been considered in depth by both House and Senate committees of interest and has been rejected as being completely unworkable.

The United States has ratified but has never implemented this 1958 treaty. To our knowledge, none of its mechanisms have ever been utilized by any nation since it came into force in 1966. On May 3, 1974, Kenneth Rush, then Acting Secretary of the Department of State, stated before the Senate Commerce Committee that the Department had no plans whatever to utilize this treaty for protecting threatened stocks of fish. In fact, because the terms of the 1958 Convention require that management measures be implemented on a non-discriminatory basis, the United States would lose whatever preferential rights we have achieved under existing treaties and agreements.

The amendment also speaks in terms of adopting emergency conservation measures in areas of the ocean adjacent to the territorial sea in the manner provided for in the treaty. However, its drafters failed to note that we already have a 12-mile jurisdiction limit for fisheries. This amendment would be a quitclaim of existing management rights in this 12-mile limit. Such a result is absolutely unacceptable.

The process of adopting emergency management regulations under the 1958 Convention is totally out of touch with biological needs. It would take well over a year before a depleted stock could be protected by such emergency measures. The ultimate affect of this amendment would be to delay application of any "emergency" measures for years. This is why many nations refuse to utilize 1958 Geneva Convention for protecting fisheries resources.

Finally, this treaty has been ratified by few major fishing nations. Neither the Soviet Union nor Japan, the two nations with the largest fishing fleets operating off U.S. shores, have signed the Convention. To rely upon this Convention would mean a serious setback to fisheries conservation. In summary, the amendment would be totally ineffective.

For reasons cited above, we believe that the Cranston-Gravel amendment to S. 961 is ill-conceived, poorly drafted and would not achieve the results desired by its sponsors. We urge that the Senate vote against this measure.

Sincerely,

WARREN G. MAGNUSON,
EDMUND S. MUSKIE,
JOHN O. PASTORE,
EDWARD M. KENNEDY,
BOB PACKWOOD,
TED STEVENS,

U.S. Senators.

Mr. STEVENS. I want, again, to go back to the problem, Mr. President, and I hope that everybody who is interested in this subject will keep in mind that my colleague constantly raises the question of using enforcement procedures to enforce the unilateral 200-mile zone.

Under our bill we have directed the Secretary of State to negotiate immediately, and we set a time limit within which those negotiations have to start of January 1, 1977. [Sec. 104] if there is any treaty in conflict with this legislation.

I point out again that the 12-mile limit was, in fact, in conflict with our North Pacific Fisheries Treaty. That has never been renegotiated. And west of the 175th meridian, as specified in that treaty, there is only a 3-mile limit in my State because we never renegotiated that treaty.

This bill is not automatically going to abrogate any treaties. [Sec. 201(b)] We are not going to have any show of force in our bill.

Under the 1958 Convention on the High Seas, though, with regard to a party that is not a signatory, there is immediate confrontation based upon unilateral conservation principles and the confrontation comes about between fishing fleets, because in my State if we were to

adopt this amendment and the President would be foolish enough to try to carry it out, it would mean we would have to grant the Soviets and the Japanese and the Poles and the Koreans equal fishing rights within the 9-mile contiguous zone.

I know of nothing that would cause more havoc among the fishing fleets of this Nation than to be faced with that conclusion. I know of nothing that the fishermen of this Nation would oppose more vehemently than that.

Beyond that, it seems to me that one has to keep in mind that what we are seeking is protection for our fisheries first, and second, to assure access. We have amended this bill to make certain that it is so stated, access to the bottom fisheries off our coast so that our fishing fleets can improve and expand and reduce this ever-growing deficit in our balance and more fish while our fishermen are catching less and less. [Secs. 2(b) ; 101, 102]

Mr. GRAVEL. The distinction I would like to draw with respect to the argument of the senior Senator from Alaska is that he is saying it is a question of access, and that is the reason why it will threaten our existing fisheries. That is not so. The treaty contemplates if we establish a conservation program that that program cannot be discriminatory.

It has nothing to do with what we are doing in our area. We are not talking about access because, obviously, we cannot stop access to the high seas. [Secs. 2(b) (1) ; 102]

But what we can do is tell them they cannot do certain things to certain species, and then we will be telling them and our own people on an equal plane.

That is what it is. So that it is application, not access.

My colleague, unfortunately—and I am sure he does not intend to do this on purpose, it is just an inadvertence—has confused those two and obscured the issues.

Mr. STEVENS. On the contrary, I am not confused and I am not inadvertent. I am stating again the response that was given by the State Department, where it specifically said, and I quoted it before and I quote it again:

The Convention on Fishing and Conservation of the Living Resources of the High Seas provides only for conservation, on a nondiscriminatory basis. Thus it does not permit us to deal with the entire problem.

It is on this basis that we have stated the problem with regard to the article 7 implementation within our zone, be it 12 miles or 200 miles. And the Senator is right, the House did exert it beyond the 200 miles, which is an entirely different thing, and that is proposed by legislation which would, in effect, be another matter.

But this is not an inadvertent mistake. We are stating categorically, the implementation of article 7 under the context that this is attempted, would have to begin at the edge of the territorial sea in order to comply with article 7.

In closing, I wish to have printed in the Record, so that there is no misunderstanding about the importance of this to Alaska, an article which appeared on January 21 of this year in the Anchorage Times. It is a review of an interview with Mr. J. M. Branson. Jim Branson is the National Marine Fisheries Service resident agent at Kodiak.

He points out that foreign fishing vessels caught 5.5 billion pounds—so there is no mistake, that is billion pounds—of fish and crabs worth \$500 million to \$600 million off the coast in 1 year.

In that same period of time, our total fishing effort of American fishermen off the State of Alaska was 463 million pounds of all fish.

That was caught by some 21,000 licensed fishermen as compared to 1,500 foreign fishing ships.

Now if those statistics do not tell us the problem, I really cannot explain it any better.

We are dealing with a situation where perhaps 10,000 Alaskans make their entire living from the sea. They are competing with 1,500 individual foreign fishing ships and in 1 year alone the foreigners caught 5.5 billion pounds of our fish and our crabs.

This is the thing we are trying to stop.

Mr. President, I ask unanimous consent to have printed in the Record at the close of my remarks the article entitled "Agent Reviews Foreign Catch."

The PRESIDING OFFICER. Without objection, it is so ordered.
(See exhibit 1.)

Mr. STEVENS. Mr. President, I ask unanimous consent that an editorial entitled "Fish Action Due" in the Anchorage News for January 27 of this year be printed following the last insert in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.
(See exhibit 2.)

EXHIBIT 1

[From the Anchorage Times, Jan. 21, 1975]

AGENT REVIEWS FOREIGN CATCH

(By Flip Todd)

Foreign fishing vessels caught 5.5 billion pounds of fish and crabs worth an estimated \$500 million to \$600 million off the Alaska coast during 1974.

According to the National Marine Fisheries Service senior resident agent at Kodiak, Jim Branson, 463 million pounds of salmon, halibut, crab and other fish worth \$145 million were caught during the same period by Alaska's 21,000 licensed fishermen. Perhaps 10,000 of them make their entire living from the sea.

"We've identified 1,500 individual foreign ships off the coast of Alaska," Branson told the Anchorage Chamber of Commerce, "and I've counted as many as 85 ships within a three-mile radius fishing for herring at the edge of the ice between the Pribilof Islands and St. Matthew Island."

Normally the foreign fleet may number from 150 vessels in the winter to as many as 700 during the height of the salmon season from May to July.

Branson's overview of the foreign fishing operation off the Alaska coast, which accounts for 56 per cent of the nation's coastline, was delivered Monday with the insight of more than 20 years in the fish and game field in Alaska.

He first went to Wrangell with the federal Fish and Wildlife Service in 1949. His first assignment on being transferred to Anchorage was to take a mother moose and her calf away from the street in front of the Post Office out to the wilderness, somewhere in the area of Turnagain.

Branson, whose job is to apprehend foreign vessels that violate U.S. laws and the treaties, spent six months earlier in his career learning Russian so he would be able to communicate with the commanders of the Soviet ships.

"The language thing is a real problem, there is no question of that," said Branson. "We depend on them to speak English but it doesn't work too well on the smaller ships."

The United States laws and regulations covering the North Pacific fishery include bilateral agreements with Canada, Japan, South Korea, Poland and

Russia. Taiwan the only other nation that fishes off the Alaska coast, began its operations this year.

The seven Kodiak agents and other agents based in Juneau rely on four HC130 Coast Guard airplanes and four H3 helicopters at Kodiak and four helicopters based on Annette Island to conduct reconnaissance of the foreign vessels. They also report violations of Japanese domestic law to the government in Tokyo via the United States fisheries attache there.

"We photograph and document everything we can see," Branson said. The agents photograph the ships' activity and what is on deck as the four-engine planes swoop over the fleets at about 200 feet at 180 knots.

Although pollock, a bottom fish, used to be the largest food source in the United States, according to Branson, "it is no longer because it's been horribly over-fished," in large part due to pulse fishing—heavy concentration in one area until a fish stock is nearly depleted—rather than conducting fishing on a sustained-yield basis.

"They've taken as much as 4.2 billion pounds of pollock in a year," he said. "That's enough fish, if laid head to tail, to reach to the moon and back three times."

Large Russian freezer fishing trawlers are replacing smaller size trawlers.

"We've identified 200 in Alaska waters at one time or another," Branson said of the freezer trawlers.

Since 1967, when the first Soviet trawler was apprehended near Metrofina Island and fined \$5,000 for illegal fisheries activities, the fines have become increasingly severe against foreign ships, Branson said.

"The fines increased thanks to U.S. Attorney G. Kent Edwards," whom he said deserves a great deal of credit for defense of the U.S. coastal fisheries. In 1975 more than \$1 million was collected for foreign fisheries violations and a Japanese ship is sitting in Lake Union near Seattle today because the owners would not pay the fine.

It has been more than three years since the United States has spotted a fisheries violator from an airplane and not been able to apprehend it with a cutter, Branson said.

The average fisheries patrol flight aboard an MC130 lasts about 8½ hours and covers 2,200 miles.

EXHIBIT 2

[From the Anchorage News, Jan. 27, 1976]

FISH ACTION DUE

Sen. Ted Stevens, R-Alaska, is to be congratulated on his effort to win a respectable compromise on the 200-mile fisheries zone controversy. That should happen in the Senate this week.

With Mr. Stevens' amendment offered last week, the Senate agrees to hold off enforcement of legislation to extend the U.S. fisheries zone to 200 miles until Jan. 1, 1977. It is intended to allow diplomats at this year's Law of the Seas Conference to have one more opportunity to arrive at a broader settlement, one which will be respected internationally.

The Senate Department and the Pentagon both have lobbied strongly against unilateral action, fearing it would injure the international effort. But President Ford now indicates that with an effective date of January 1977, he will not veto the measure. (Senate approval of the legislation was assured, but a presidential veto had been feared.)

The fisheries zone will enable the United States to control its rich renewable resource more effectively, especially off Alaska where foreign fishing fleets have depleted many stocks while our fishermen have been handcuffed with a variety of prohibitions aimed at conservation.

Just as Mr. Stevens worked hard for the 200-mile compromise, Alaska's other Senator, Democrat Mike Gravel has worked hard against it.

Mr. Gravel believes not only is unilateral action ineffective policy, it would be in violation of international law. Instead, he's proposed a fisheries conservation and management proposal which would set catch limits and equipment standards for all fishing nations when a fish stock is endangered. In addition, it would authorize nations to enforce the limits and standards.

We can appreciate Mr. Gravel's desire to see international law effected. But there's no certainty that either his latest proposal or the Law of the Sea work will become international law.

Meanwhile, the 200-mile bill before the Senate offers an appropriate compromise on behalf of the Law of the Seas and the Ford administration's diplomatic stance. And if the international conference fizzles, all is not lost—the United States has a ready-made action plan to begin protecting its fisheries.

Mr. STEVENS. Mr. President, it is my understanding we each have 45 minutes tomorrow following the vote on the Gravel amendment.

It is my understanding that at the close of this time now that we automatically go to the Gravel amendment which would be pending business to be voted on at 9:45; is that the parliamentary situation?

Mr. STEVENS. May I ask what Gravel amendment we are talking about?

The PRESIDING OFFICER. No amendment was specified. In the agreement, any amendment by the Senator from Alaska would be eligible.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call—

Mr. STEVENS. The time has expired, before that commences, on both sides under the present agreement; is that correct?

The PRESIDING OFFICER. The Senator is correct.

The clerk will call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I wonder if I can ask the Senator from Alaska if it is agreeable with him, even though the time has expired, that I may proceed for a few moments on this subject.

Mr. President, the assertion which has been made that invocation of article 7 would restrict our control of the 9-mile contiguous fishing zone, as I have said, is not a valid argument. I believe it is incumbent upon those who make such an argument to bring forth some authorities, such as statements of reputable experts in the field, to support such a claim.

As I see it, the requirement that article 7 measures be implemented in a nondiscriminatory way means just that. Any restrictions on the activities of foreign fishermen outside our territorial sea which would be based on article 7 would have to be nondiscriminatory. But this provision does not affect our jurisdiction based on other provisions, other treaties or statutes which do not depend upon article 7 for their authority.

My staff has been in telephone contact with Prof. Louis Sohn, of the Harvard Law School, a recognized expert in this field. With respect to this particular point, Professor Sohn has just stated the following:

Action taken for conservation under Article 7 does in no way diminish the authority of the United States in the 12-mile fishing zone.

I realize and certainly recognize that my colleague from Alaska (Mr. Stevens) is an excellent lawyer in his own right. If he so interprets article 7, he certainly has the right to do it. But I do not believe that his assertion is without challenge, and I see no reason to assume or to come to the conclusion that by adopting this amendment we would, therefore, be taking a step backward, as he has contended.

Mr. President, like many of my colleagues, I find myself in a dilemma on S. 961. On the one hand, I recognize and share the concern of the sponsors of the bill that continued overfishing off our coasts might lead to the depletion of some species of ocean resources before the third Law of the Sea Conference can complete its work and come up with permanent means of protection in the form of a new treaty.

On the other hand, I recognize that the measures proposed by S. 961 would require us to violate or abrogate important international treaty obligations, would encourage unilateral claims by other states, would endanger the success of the Law of the Sea Conference, and might well lead to a military confrontation with the Soviet Union.

As a member of the Oceans and International Environment Subcommittee of the Foreign Relations Committee, I have felt a special obligation to insure that my colleagues were aware of the serious international implications of S. 961. However, my very strong reservations about this aspect of the bill should not be misunderstood to imply my disinterest in its conservation aspects.

I believe that the amendment before us—the so-called Cranston-Griffin amendment—provides a workable solution to the dilemma. If enacted, it would allow the United States to take the necessary conservation measures to ensure the survival of all threatened species, and at the same time would be consistent with our international treaty obligations.

During consideration of S. 961 late last year by the Foreign Relations Committee, Senator McGee and I voted with the majority to report the bill unfavorably. In our supplemental views which accompanied the committee's report on the bill, however, we noted the existence of an alternative approach to the problem which would avoid most of the international problems we found in S. 961. That alternative was article 7 of the 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas. The pending amendment is based on the principles set forth in that article.

Before examining article 7, a little background on the 1958 Geneva Conference and the Convention on Fishing . . . is perhaps in order.

The purpose of the First United Nations Conference on the Law of the Sea was, as its name implies, to set forth the international law governing the conduct of States and their citizens over, on, and under the oceans and other international waters. The four Conventions produced by the Conference were described by the Senate Foreign Relations Committee in this way:

The purpose of the four conventions . . . on the law of the sea is to codify existing international law and to establish additional international law in this field.

Unlike the Convention on the High Seas—which in its preamble claimed to be a codification of established principles of international law—the Convention on Fishing and Conservation of the Living Resources of the High Seas was an effort to establish new law in an area of increasing world concern. It was the culmination of nearly 30 years of hard work by jurists and scholars from all over the world. Clearly, it was much more than just another international agreement.

At the request of the United Nations, the Food and Agricultural Organization, FAO, called together fishery experts from around the

world in the spring of 1955 to prepare a set of draft articles on fisheries. These articles, slightly modified by the U.N.'s International Law Committee, became the basis for the 1958 Convention on Fishing.

Although there were differences on specific provisions, when the final convention came up for final vote before the 86 nations represented at the Conference, only one nation—West Germany—voted "nay." It is true, however, that several other nations, including Japan and the Soviet Union, abstained and did not vote.

Two quotes serve to illustrate the importance of the convention, and emphasize the status of its provisions as newly established rules of international law.

In its report to the President urging the ratification of the convention, the State Department wrote:

The convention on fisheries conservation lays down *rules of law* based on sound conservation principles which should do much to assure the preservation and increase of an important source of world food.

Prof. André Gros, legal adviser of the French Foreign Office and a delegate to the Conference, stated:

The *prior international law* did not assure sufficient protection of marine fauna against abusive exploitation or extermination; the work accomplished at Geneva should be regarded favorably both by "progressive" spirits since it creates new rules and by "conservatives" since it works out an equilibrium wherein the fishing interests of each State are recognized.

Continuing, Professor Gros warned:

In effect two ways still lie open to states for regulating the great problem of the best utilization of the living resources of the sea—cooperation organized according to the Convention, with the emphasis, on the right of the coastal states—or insoluble disputes between states which claim over zones of the high seas an exclusive jurisdiction . . . It must be hoped that states will see clearly that the new provisions contained in the Convention . . . constitute the last chance of international cooperation in the field of reasonable utilization of the living resources of the sea.

Just what are the provisions of article 7 of this convention—the provisions which form the basis for the pending amendment?

Article 7 provides that—

Any coastal State may, with a view to the maintenance of the productivity of the living resources of the sea, adopt unilateral measures of conservation appropriate to any stock of fish or other marine resources in any area of the high seas adjacent to its territorial sea, provided that negotiations to that effect with the other States concerned have not led to an agreement within 6 months.

In order to be applicable as against other States, however, article 7 sets forth three requirements:

(a) That there is a need for urgent application of conservation measures in the light of existing knowledge of the fishery;

(b) That the measures adopted are based on appropriate scientific findings; and

(c) That such measures do not discriminate in form or in fact against foreign fishermen.

In practice, this mechanism would require a scenario along these lines:

Immediately following passage of S. 961 as amended a thorough study would be made of the most up-to-date fishery information to identify all stocks that are in danger of depletion.

The United States would provide this information of the Director General of the Food and Agriculture Organization of the U.N., and to other concerned parties; and would call for negotiations to reduce the harvesting of these stocks sufficiently to prevent their continued depletion.

If, at the end of a 6-month period of negotiations, measures to achieve this objective have not been agreed upon, the United States would promulgate unilateral regulations—without discrimination between foreign and domestic fishermen—to provide for the conservation of the affected stock.

It is the intent of the sponsors of this amendment that these measures would be enforced against parties to the 1958 Convention on Fishing and nonparties alike.

If the measures were not accepted by another state, the convention provides for the settlement of disputes through a five-member commission, selected either by agreement between the states concerned, or—in the event that they are unable to reach agreement—appointed by the Secretary General of the United Nations.

Pending the decision of the special commission, which is to be based on the three requirements set forth in article 7—urgency, based on appropriate scientific findings, and nondiscriminatory—the measures adopted shall remain obligatory.

From my perspective, this is a far more attractive scenario than the confrontation which would likely follow enactment of S. 961 as it now stands—instead of Iceland and Great Britain, picture for a moment the United States and the Soviet Union.

Mr. President, the pending amendment has virtually all of the advantages and almost none of the drawbacks that have been raised about S. 961.

It would preserve, virtually intact, the important management provisions of S. 961.

It would become effective as soon, if not actually sooner, than S. 961.

Unlike the present provisions of S. 961—which are directly in violation of articles 2 and 22 of the Geneva Convention on the High Seas—this approach is not only consistent with, it is actually based on the 1958 Geneva conventions. The importance of this feature is highlighted by the fact that article 2 guarantees not only “freedom of fishing,” but also our freedom of navigation, overflight, and other vital rights that might be jeopardized by our abrogation of that part of the Convention on the High Seas.

Rather than reinforcing the illegal territorial claims of states which attempt to deny U.S. fishermen the right to catch tuna and other stocks on the high seas, and encouraging other nations to make similar unilateral claims; this amendment would provide a responsible precedent for other states to limit their claims strictly to legitimate conservation measures.

Whereas S. 961 as presently written has been denounced as illegal by numerous respected scholars of international law—including former ICJ Judge Philip Jessup, the man largely responsible for making true conservation measures possible under article 7 of the convention on fishing—the approach taken in this amendment is almost universally considered much more acceptable.

The amendment does not run counter to the decision of the International Court of Justice in its 1974 Iceland fisheries case—a ruling contrary to the spirit of S. 961 as presently written.

The most serious objection to this amendment raised by its opponents is that since neither Japan nor the Soviet Union has ratified the Convention on Fishing they might be unwilling to accept measures taken thereunder. In rebuttal, I would note the following:

Japan and the U.S.S.R. are much less likely to accept the measures contemplated in S. 961, and thus, while their failure to become parties to the 1958 convention is a possible problem, it is certainly not as bad as the situation that would result from passage of S. 961 as it is.

As I have already shown, the 1958 convention on fishing was a U.N.-sponsored effort to establish international law of the sea. Because of this, several legal scholars—including Louis Sohn of Harvard Law School, and Myers McDougal of Yale—have argued that action pursuant to the principles set forth in article 7 is opposable without regard to another state's position on the convention.

Several U.S. negotiators have reported informal assurances from Soviet and Japanese diplomats that they would be receptive to conservation moves based on article 7.

Even if agreement were not reached and a dispute arose, since the Convention provides a mechanism for peaceful settlement of disputes, the likelihood of armed confrontation with the Soviet Union will be reduced.

Mr. President, over 13 years ago Prof. William Bishop, of the University of Michigan Law School, wrote a perceptive analysis of the 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas, in the *Columbia Law Review* of November 1972. He concluded that article by urging:

In discussing and working out solutions for the various fishery conservation problems that arise, it is to be hoped that the United States will do all it can to press for specific solutions in accord with the principles embodied in the Convention.

I wish to echo that statement—and to strongly urge my colleagues to act favorably on this amendment as a major move in that direction.

Mr. STEVENS. Mr. President, I have great respect for Professor Sohn, having been a product of the school at which he is professor. I studied maritime law as my intended area of the law in which to concentrate. I know his reputation and I know that he has been very dedicated to this area. He is also under contract to the State Department, a member of the Advisory Committee on Law of the Sea and is directly and diametrically opposed to the basic bill.

I am very disturbed to hear that Professor Sohn is drawing a conclusion which is contrary to the precise words of the treaties which he is as familiar with as I. Those treaties are two treaties, both signed in 1958. One is the Convention on the Territorial Sea and the Contiguous Zone, which was entered into in Geneva on April 28, 1958, and ratified by this Senate on May 26, 1960. That defines what is the territorial sea. It is the area that is marked on charts on fishery recognized by the coastal state. In this instance, that means a nation such as our Nation.

The second is the Convention on Fishing and Conservation of the Living Resources of the High Seas, also entered into on the same date, April 28, 1958, and ratified on the same date by this Senate.

It specifically states—

The measures appropriate to any stock of fish or other marine resources in any area of the high seas adjacent to its territorial seas.

Had the framers of this amendment used the proper approach, and said that the action should be taken in an area adjacent to our territorial seas and the contiguous zone adjacent thereto, it would be another matter. But they drafted this amendment, and the amendment says it applies to the area adjacent to our territorial sea; and our territorial sea is 3 miles, and so officially represented on the charts approved by the State Department.

I hasten to add that we have had some trouble with those charts, but there is no question in my mind that while Professor Sohn might be correct in the abstract, that we could take action in any area, which is what the article says, of the high seas adjacent to our territorial seas, this amendment takes place in the area adjacent to our territorial seas.

We are about ready to wind up, I assume. But the problem is that what this amendment is trying to do is tell the President of the United States—or specific executive officers, the President, the Secretary of State, and the Secretary of Commerce—to take action which witnesses that appeared before our committee stated could only be taken by Congress.

I have pointed out the article which says there is no enforcement mechanism in article 7. This is like saying “Go out and put up a bunch of purple stop signs along Constitution Avenue,” when the law applies only to red stop signs. There is no enforcement mechanism in either the treaties or the amendment that has been presented, and I can only say again I am sorry to hear that Professor Sohn has made that statement. I disagree with him. I think the amendment before us is specific, and that the impact of it, if adopted, would be that we would proceed with this paragraph to our detriment within the 9-mile contiguous zone.

Mr. President, I again pose a parliamentary inquiry as to the status of the bill at this point, with regard to the amendment that I understand my colleague may offer in the morning. Is there any controlled time with regard to the amendment that is to be voted upon at 9:45?

Mr. President, we have had a rapidly growing number of cosponsors of the Cranston-Griffin amendment. My present list is incomplete, because certain Senators are, I believe, about to join us but have not yet formally done so. But I would like to add two who joined up today: Senators Hart and Fong.

Also among those who have joined after the original sponsors, whose names appear in the printed amendment, are Senators Bartlett, Brock, Domenici, Helms, McGovern, Percy, and Tunney. I ask unanimous consent that the names of all those Senators be added as cosponsors.

The PRESIDING OFFICER. Is that Hart of Michigan?

Mr. CRANSTON. That is Hart of Colorado.

Mr. STEVENS. I think it is very important that we get this in the Record so it is clear what we are talking about.

As I understand it, and as staff has just pointed out to me, if we have a stock of fish that is outside the contiguous zone and also comes within the contiguous zone, such as our albacore or our king crab, if article 7 were to be followed, it would mean there could be no dis-

crimination granted in favor of U.S. fishermen beyond either the territorial sea or contiguous zone line; but within either line we would have regulation of our own fishermen and absence of foreign fishermen.

This is the precise problem that the Alaska Supreme Court faced in a decision announced this last week, where the court announced that with regard to king crab, where there were no regulations beyond the 3-mile limit, the State of Alaska could in fact regulate king crab beyond the 3-mile limit.

This amendment, in my opinion, would wipe out the effect of that supreme court decision, and would wipe out the protection that we now have, regardless of where we draw the line, in favor of American fishermen with regard to U.S. fisheries resources.

I think it is highly necessary that we defeat this amendment. I would rather lose the bill than lose the vote on this amendment, because I think it is so detrimental to what we have been working on for so long.

Mr. CRANSTON. I ask unanimous consent that the Nelson amendment, offered earlier this afternoon to the Cranston-Griffin amendment, be eligible for consideration at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent now to modify my amendment to accept the amendment of the Senator from Wisconsin.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modification is as follows:

On page 5, line 4, after "Act", insert the following: "to announce, within thirty days of the enactment of this Act, his intention to promulgate regulations to conserve the seriously depleted or endangered species in their specific areas; to notify immediately thereafter the foreign nations presently fishing for these species in these areas of this intention; and". [Sees. 101; 102]

Mr. CRANSTON. I applaud the initiative of the Senator from Wisconsin in offering this amendment. It straightens out a fundamental flaw in the original version of the Cranston-Griffin amendment: it requires the administration to immediately proceed to launch negotiations with other nations to establish proper controls over fish and other resource depletion. It thus assures that if agreements satisfactory to the United States are not reached in 6 months, we can proceed to establish just the sort of conservation measures Senator Magnuson calls for in S. 961.

ANNOUNCEMENT OF POSITION ON VOTE

Mr. STEVENSON. Mr. President, I was necessarily absent during the vote on amendment No. 1329 to S. 961. Had I been present I would have voted "nay."

Mr. BROOKE. Mr. President, I share with so many of my colleagues a sense of profound urgency about enactment of the 200-mile zone for fisheries management. I believe we can and should act without endangering progress toward a new international order governing use of the seas. But I also believe that we must act now so that our endangered fishing stocks can be protected by 1977. If we fail, fish life on our continental shelves may not survive the years of negotiations that will surely follow.

As the residents of Massachusetts and all the other coastal States know only too well, foreign fleets are turning our rich fishing grounds into wastelands. In just 10 years, the worldwide fishing catch tripled, as large and powerful modern vessels were added to the fishing fleets of several nations. In 1960, American fishermen took virtually all the fish caught from Georges Bank and off New Bedford and Rhode Island. By 1970, 90 percent of that catch went to the fishermen of other nations.

As a result, many of our most familiar fish species are now endangered, including haddock, menhaden, halibut, flounder, and my State's own historic symbol, the cod.

The United States must have the right to set catch limits in an area large enough to protect the natural habitat of many fish. Without the power to regulate and enforce fishing standards, our once-rich fisheries may become extinct. And our fishermen, who carry on a proud tradition, will be without work. The Nation cannot let this happen.

This is the real reason that the Congress must act now and the President should sign this important measure. Some counsel us to wait until the ongoing international negotiations achieve agreements of fisheries. We have waited for 5 long years while this bill was formulated and debated here. We have waited while the swarming fishing grounds that fed this Nation and others for more than 300 years became virtual wastelands.

There is yet some possibility that the fish can survive and reproduce in safety and eventually win their biological struggle against nature. But every week we delay here that chance becomes smaller. Mr. President, I too would like to take all the time in the world to achieve this end through international consensus. But for fish on the Continental Shelf, "all the time in the world" has run out. If we do not quickly establish control of these fishing grounds so that we can enforce an ecologically sound management program, there will be nothing to negotiate in any case.

I firmly believe we have acted with all deliberate speed to this point. I think our good-faith efforts in the international arena were justified. But the oceans themselves are now setting the pace for us. We must act definitively to save these precious fisheries or we will surely lose them.

Mr. President, one of the sad aspects to this debate is that opponents of the 200-mile zone for fishing have sometimes sought to characterize support for the bill as tantamount to opposition to the establishment of a new international legal order regulating our seas. Nothing could be further from the truth. I number myself among the ardent supporters of a new Law of the Sea Treaty which respect the rights of coastal and landlocked states and of rich and poor nations alike. Indeed, the future relationships among Third World nations and the technologically advanced economies may well follow patterns set up in the agreements that will someday be signed. Furthermore, the development of resources on the moon's surface and in outer space may be undertaken in relationships similar to those established in the international agreements on international ocean resources. Nothing could be more important.

However, after careful study, I am firmly convinced that fisheries management is far from the central issue at these talks. While risks

exist that a unilateral declaration of a 200-mile fishing zone by the United States could encourage others to consider widening the focus to economic zones, the immediate and pressing needs of our fishing industries justify the taking of such risks.

Quite frankly, there has been a good deal of exaggeration and hyperbole on the part of opponents of this measure. For example, we are told that our unilateral declaration will touch off an epidemic of zone-making. To begin with, none of us should begrudge other nations' establishment of sound fisheries management rules. The foreign catch allowed will, as in our own zone, have to be established through negotiated agreements. The real fear is said to be that other nations will declare 200 mile general economic zones. Mr. President, this bill sets an example for restraint, not for wanton seizing of resources. It does not establish an economic zone or a territorial sea. It sets up a fisheries management zone.

I also believe U.S. action on fisheries is simply not the determining factor in the various unilateral decisions being considered around the globe. Seventeen coastal States have established fishing and economic zones wider than 100 miles from their shores. Three of those were established, without any preceding U.S. action, in the last 4 months.

I am especially troubled at what I consider to be distortions by some who oppose this act. We are told the Montreal ICNAF Conference rewrote our agreements with the Russians and the Japanese so as to solve the fish conservation problems through bilateral treaties. This is not the result. The catch limits are still set above maximum sustainable yield. And last year these nations did not catch as much as these new limits let them take now, simply because the fish stocks are gone.

Furthermore, it has been said that this action would abrogate existing bilateral treaties. This is false. [Sec. 201(b)] All these fishing treaties contain provision for renegotiation after proper notice.

And, we are told that new bilateral treaties are the surest solution. But no one disputes that these will take 2 more years to get ready for signature. And treaty renegotiations clearly have not alleviated the problem this past year.

Finally, we have now been presented with the proposed substitute which would invoke application of the 1958 Geneva Convention to solve our fisheries problems. Mr. President, this approach should have been discredited 2 years ago. It simply cannot provide the protection our fishing areas need, and I believe its sponsors know that full well.

For example, the 33 signatories to this treaty do not include the Soviet Union, Romania, Poland or Japan, who are among those nations fishing most intensively off our shores. Furthermore, as far as I can tell, it was drafted in such haste that it would effectively repeal the Bartlett Act, which established a 9-mile buffer zone beyond our 3-mile territorial sea. Thus, our coastal fisheries would essentially be reduced to one-quarter of their previous size. Finally, in the case of disputes or proven overfishing, American fishermen would have no preferential claims over the fish resources. They would have to cut back equally as much as the nations which are fielding such vast modern fishing fleets. The dispute over whether or not there should be any national preference in coastal waters is an honest one, but I strongly feel that we should have such preference. Our fishermen could take a

catch that would fill the capacity of our commercial fisheries and leave plenty of fish for other nations once we have a well-managed coastal fishing area established.

Mr. President, we are dealing with a fragile natural resource. These fishing grounds will be a precious heritage of protein sources, minerals, and biochemical data for future generations, if we can keep them. But time and an intelligent management program are our only tools to meet this new challenge. Both will be available to us if we enact this measure promptly. Neither is likely to be within our grasp if we fail.

Mr. President, I hope my colleagues will send this measure to the President promptly and that, with his signature, we may get about the real task before us, that of developing and conserving our fisheries with all the art and skill available to marine experts in the 1980's.

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Mr. GRAVEL. Mr. President, I have joined with a number of my colleagues in offering an amendment that will make a fundamental improvement in S. 961, the Magnuson Fisheries Management and Conservation Act.

Senators have expressed two major concerns during consideration of fishery management legislation: First, they want to institute conservation practices that will preserve our fisheries [Sec. 101]; and second, they want to avoid jeopardizing an early agreement on the Law of the Sea. [Sec. 401]

S. 961 fully meets the first of these two criteria. There seems to be universal agreement that the management sections of the bill [Secs. 102; 301; 302; 303; 304; 305] will provide the mechanisms we need to restore our fisheries to desirable levels and maintain them for the future. It does not, however, institute these management provisions in a manner which will assure international consent. On the contrary, by unilaterally declaring exclusive fisheries jurisdiction over a 200-mile zone, [Sec. 101] S. 961 threatens to destroy any opportunity of achieving a comprehensive Law of the Sea agreement any time in the foreseeable future.

The amendment we have offered resolves this dilemma. It does not force us to choose between international cooperation and proper management of our fisheries. While preserving completely intact the management provisions of S. 961 [Secs. 102; 301; 302; 303; 304; 305], it substitutes for the claim to a 200-mile fishery conservation zone [Sec. 101] the procedures for fishery conservation set forth in article 7 of the 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas. This Convention is accepted throughout the world as customary international law, and application of its fishery conservation procedures will not sabotage our chances for agreement at the Law of the Sea.

Specifically, article 7 of the Geneva Convention works this way:

A coastal nation such as the United States makes a finding that certain of its fish stocks are in immediate need of conservation.

The United States notifies other nations which fish for these stocks of its intent to adopt unilateral measures of conservation pursuant to article 7 of the Geneva Convention.

The United States enters into negotiation with these other nations.

If these negotiations have not resulted in agreement within 6 months, the United States promulgates regulations to unilaterally put into effect appropriate conservation measures.

Under the terms of the convention, these unilaterally adopted regulations "shall be valid as to other States, nations, if the following requirements are fulfilled":

First, there is a need for urgent application of conservation measures;

Second, the measures adopted are based on appropriate scientific findings; and

Third, the measures do not discriminate in form or in fact against foreign fishermen.

These conservation measures will remain in force unless challenged, and if challenged will remain in force until a decision on their validity is reached by a special commission of five members, who will be appointed by agreement between the nations in dispute.

Any special commission arbitrating a dispute will award its judgment to a coastal nation which adopts conservation measures if it has properly applied the criteria set out above.

The Geneva Convention approach to fisheries conservation not only avoids antagonizing other nations and destroying the law of the sea, but also results in more immediate conservation of U.S. coastal fish stocks. S. 961 will not be enforceable against foreign and U.S. fishermen until January of 1977. [Sec. 104] Under our amendment enforcement could proceed in just half that time. Moreover, the Geneva Convention approach would be valid under international law and hence much more easily enforced.

CONSERVATION NEED

In debate on S. 961, the managers of the bill agreed that the real problem to which the bill addresses itself is the condition of 16 U.S. coastal fish stocks which are currently endangered by either U.S. or foreign fishing, or a combination of both—see CONGRESSIONAL RECORD for Wednesday, January 21, 1976, pages S254 and S255. Both the proponents and the opponents of S. 961 agree that immediate action is needed to protect these stocks. [Sec. 2] The question in controversy is simply: Do we claim a 200-mile zone [Sec. 101], or do we claim only the right to conserve fish stocks? Article 7 of the 1958 Geneva Convention provides us with the tool to do the latter, and to do it without the international friction sure to be generated by a unilateral 200-mile claim.

The Geneva Convention approach, coupled with the management provisions of S. 961 [Secs. 102; 301; 302; 303; 304; 305] will harmoniously place in motion the necessary mechanisms for the management of a 200-mile zone, which will soon be adopted at the Law of the Sea Conference if hasty unilateral claims to ocean space do not preempt such agreement.

CONSERVATION UNDER THE LAW

International legal scholars are nearly unanimous in agreeing that S. 961's unilateral assertion of U.S. exclusive fisheries jurisdiction over

200 miles [Sec. 101] violates customary international law and fisheries treaties to which the United States is party. This view has been affirmed by both the Senate Foreign Relations Committee and the House Committee on International Relations.

The Geneva Convention on the Conservation of the Living Resources of the High Seas, on the other hand, is not merely in accord with international law; it is the very basis for international law on ocean fisheries. Therefore, application of Article 7, as called for in our amendment, would clearly constitute conservation under law.

ENFORCEMENT

Under the Geneva Convention approach to fisheries conservation, the United States would have full enforcement rights. The management councils set up under this act [Sec. 302] would have as their first order of business the drawing up and promulgation of those regulations necessary for a proper management and enforcement scheme [Sec. 302(h)]. The councils would bear the responsibility for: first, establishing the urgent need for conservation measures; 2, assembling the scientific data to support the adoption of conservation practices, and 3, assuring that conservation measures are evenhanded in their treatment of U.S. and foreign fishermen. [Sec. 303]

INTERNATIONAL PRECEDENT

By implementing article 7 of the Geneva Convention, the United States would set an example for the rest of the world to conserve ocean fishery resources, and to do so within the framework of international law. This would avoid the great danger of triggering other unilateral claims based solely on national laws. Only in this way can the United States preserve its bargaining position at the Law of the Sea Conference, which must rest upon a foundation of mutual restraint if other nations are to be persuaded to forego unilateral claims that are in their particular national interests, but which in many cases will be in conflict with the U.S. interest. Guarantees on free transit of vessels, dispute settlement, deepsea mining, pollution control, and other ocean issues can be assured only if we foreswear unilateral assertions of authority in all areas.

JAPAN AND THE SOVIET UNION

Some may question the authority of the United States to enforce the provisions of article 7 of the Geneva Convention against nonsignatory nations, the most important of which are Japan and the Soviet Union.

But this criticism of an article 7 approach to the conservation of our fishery resources represents a misunderstanding of the status of international law on this matter. The proponents of S. 961 have claimed again and again that a coastal nation has the right under international law to adopt conservation measures. [Secs. 2; 101] The International Court of Justice in the Icelandic fisheries case has confirmed this right.

Although international law does not allow for the unilateral claim of 200 miles over all fishery resources, it does allow for emergency

conservation measures to protect endangered fisheries. International legal opinion on this matter is clear.

Arthur H. Dean, the chief U.S. negotiator at the 1958 and 1960 Geneva Conventions, and considered by many to be the father of modern day ocean law, has written to me on this matter as follows:

I believe the implementation of Article 7 of the Geneva Convention on Fisheries and the Conservation of the Living Resources of the High Seas, as adopted April 29, 1958, would be consistent with the U.S.A.'s international legal obligations. While Japan and Russia did not sign this treaty, it is my understanding that they have agreed to it in practice, and in view of the development in state practice, it largely reflects customary international law. The proviso clause in paragraph one of Article 7 expressly contemplates such implementation or negotiations.

Prof. Louis Henkin, professor of international law and diplomacy at Columbia University, has also written me on this matter. He concludes:

A strong argument can be made . . . that in its essential respects the 1958 Convention, including Article 7, merely declared customary law; or that, in any event, the Convention together with developments before and since, have established its essential principles as customary law.

On the other hand, Professor Henkin notes:

Any unilateral action beyond the territorial sea is *prima facie* suspect. In my view, however, an impartial tribunal might well hold that, unlike assertions of exclusive fishing rights, bona-fide conservation measures applied to all (including the coastal fishing state) is now within the authority of the coastal state under customary law. A conservation regulation applicable to all fishing (including our own), moreover, accords with the policies pursued by the United States since the Truman Proclamation of 1945; a large, exclusive fishing zone, on the other hand, would be wholly contrary to the policies and the view of international law, which the United States has consistently and repeatedly asserted. (The United States, you will recall, has repeatedly and vehemently protested assertions of 200-mile fishing zones by other states.)

The president of the American Society of International Law, R. R. Baxter, has described the Geneva Convention Approach to conservation as follows:

- (1) It is a limited claim under existing international law.
- (2) It is undertaken under an arrangement which is multilateral rather than unilateral in character.
- (3) It asks others to join in conservation measures on a non-discriminatory basis.
- (4) It is consistent with the International Court of Justice decision in the recent Icelandic Case.

In addition, Prof. Louis Sohn, perhaps the most knowledgeable individual in the field of international oceans law, has told me that implementation of article 7 of the Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas would be entirely consistent with U.S. obligations under international law. Such action would be taken within the context of a unilateral agreement. It has long been considered customary international law and would be so found by the International Court of Justice if a case were brought before it on this matter.

Finally, the very fact that the Soviet Union and Japan agreed at the September 1975 ICNAF meeting to reduce their fishing of U.S. coastal stocks to levels consistent with maximum sustainable yield and conservation is strong proof of their recognition of the right of coastal

states to implement conservation measures. Japan and the Soviet Union are also party to other bilateral and multilateral treaties which contain explicit acknowledgements of their responsibility to promote fishery conservation.

JANUARY 23, 1976

AMENDMENT NO. 1331

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. Griffin, Mr. Morgan, Mr. Stafford, Mr. Humphrey, Mr. Goldwater, Mr. Huddleston, Mr. Thurmond, Mr. Clark, Mr. Tower, Mr. McGee, Mr. Baker, Mr. Gravel, and Mr. Stevenson) submitted an amendment intended to be proposed by them jointly to the bill (S. 961) to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain areas in order to conserve and protect such fish from depletion, and for other purposes.

Mr. CRANSTON. Mr. President, Senator Griffin and I are today introducing a compromise amendment to S. 961, the 200-mile limit bill. It is initially cosponsored by these Republicans and Democrats from both coastal and inland States representing the full spectrum of political philosophies in the Senate: Morgan, Stafford, Humphrey, Goldwater, Huddleston, Thurmond, Clark, Tower, McGee, Baker, Gravel, and Stevenson.

The amendment retains the fisheries management provisions of S. 961 [Secs. 102; 301; 302; 303; 304; 305], while striking the assertions of unilateral 200-mile jurisdiction from the bill. [Sec. 101]

To conserve and protect resources from depletion, the amendment provides for invoking application of the 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas as the proper way to establish emergency conservation procedures.

It draws upon the authority within article 7 of the Geneva Convention to give coastal nations power to adopt conservation measures appropriate to any stock of fish or other marine resources in the areas of the high seas adjacent to its territorial sea, provided that negotiations to that effect with the other nations concerned have not led to an agreement within 6 months. [In accordance with article 7, unilateral action of this nature must be based on scientific findings and must not discriminate against foreign fishermen.]

The amendment further directs the Secretary of Commerce in consultation with the Secretary of State to promulgate regulations necessary to conserve the productivity of the living resources of the high seas of prior negotiations have not led to a satisfactory agreement at the end of 6 months.

These regulations would apply simultaneously and equally to all vessels and fishermen taking, either intentionally or incidentally, regulated fish stocks.

Finally, the amendment provides as enforcement the provisions and the penalties imposed by the act—including seizure, forfeiture, and condemnation. These are to be applied to those vessels violating the regulations promulgated by the Secretaries of State and Commerce. [Secs. 307; 308; 309; 310; 311]

JANUARY 22, 1976

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session and resume the consideration of the unfinished business, S. 961, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 961) to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

Mr. MAGNUSON. Mr. President, as I understand it, the pending order of business——

Mr. BENTSEN. Mr. President, I cannot hear the Senator. Will he use his microphone, please?

The PRESIDING OFFICER. Will the Senate come to order? Will the galleries cooperate?

Mr. MAGNUSON. As I understand it, the pending order of business is now the so-called Bentsen amendment to S. 961, the fisheries management bill.

I understand that the Senator from Alaska has a substitute to this amendment, and that there is a time limitation on the amendment, so I wish the Senator to know that.

I yield to the Senator from Texas.

The PRESIDING OFFICER. The Chair advises the pending question is on agreeing to the amendment by the Senator from Alaska (Mr. Stevens) to the amendment No. 900 by the Senator from Texas (Mr. Bentsen). Debate on this amendment is limited to 30 minutes to be equally divided and controlled by the Senator from Alaska (Mr. Gravel) and the Senator from Texas (Mr. Bentsen) with votes thereon to follow immediately.

Mr. MAGNUSON. I thank the Chair.

Mr. BENTSEN. I thank the Senator very much for yielding.

Mr. President, I fully support the perfecting amendment offered by the distinguished Senator from Alaska to my amendment. This language is the result of extensive negotiations to reach mutually acceptable language and I appreciate the committee's willingness to accommodate the interests and needs of this Nation's distant-water fishers.

Mr. President, the Stevens-Bentsen compromise amendment is designed to provide a modicum of protection to this country's distant-water fishermen who will be adversely affected by this 200-mile legislation unless certain safeguards are enacted.

If the United States unilaterally extends its fishing zone, a number of other nations off whose coasts U.S. vessels fish can be expected to follow suit in the absence of any real progress toward multilateral solution at the Law of the Sea Conference. Since the bill before us would allow regulated foreign fishing based on sound management conservation practices in our own waters. I believe equity and justice require that foreign nations allow U.S. fishermen adequate and reasonable access to their waters as well as where their own stocks are not being fully fished.

In spite of growing support in the Congress for an extension of our fishing zone, however, the Department of State has done little toward

beginning negotiations with those nations off whose coasts we fish and access to whose waters is essential for the very survival of our distant-water fisheries. Shrimpers in my own State of Texas will be particularly affected by the recent decision of Mexico to extend its fishing zone to 200 miles. Much of Texas shrimping is done off the coasts of Brazil and Mexico. If we are denied access to those waters, the shrimp industry in my State will be severely damaged. Likewise with tuna.

Mr. President, we are engaged in a virtual fishing war with Ecuador. Since 1961, Latin American nations have seized 211 U.S. fishing vessels at a total cost of \$12 million. Of this amount \$8 million has been reimbursed but the financial loss—and the lost fishing time—have been considerable.

Consequently, it is imperative that the U.S. Government negotiate fisheries agreements with these nations to stave off a deteriorating set of hemisphere relationships.

My amendment, Mr. President, would require the Department of State to begin negotiations with those nations in whose waters U.S. vessels fish in order to reach equitable fisheries agreements. If the Secretary of State determines that such a nation refuses to negotiate in good faith, the Secretary of the Treasury is required to impose an embargo against imports of seafood and seafood products of that fishery from that nation. In addition, my amendment would define an illegal seizure by another country of a U.S. fishing vessel as a refusal by that government to negotiate a fishing agreement in good faith.

Let me say a word at this point about one objection that has been raised to the amendment. Mr. President, this is not a heavy-handed approach. The amendment clearly gives the Secretary of State the widest possible authority and discretion to negotiate a fisheries agreement. Only when and if the Secretary determines that a foreign nation is not acting in good faith can he direct the imposition of an embargo. And anyone who knows anything about the State Department's history of negotiating can see that this mandate to the Secretary of State will be given the most liberal interpretation possible.

Mr. President, my amendment will be an important incentive to the State Department to begin negotiations which have already been too long delayed and which will be of major importance for this Nation's distant-water fishermen. Without this amendment, our tuna and shrimping industries, already hit by severe increases in operating costs which cannot be recovered by an increase in prices, are facing a deadly struggle for their very existence. This amendment will be an important step toward insuring the survival and well-being of two important segments of this Nation's fishing industry.

Mr. GRIFFIN. Mr. President, will the Senator yield for a question?

Mr. BENTSEN. I yield.

Mr. GRIFFIN. I must respectfully say that I am confused about this amendment. Is it the position of the Senator from Texas that in this bill we can lawfully, without regard to international law, assert a 200-mile fishing zone and at the same time continue to deny that other nations in South America can do the same? It seems to me that that is what the amendment of the Senator from Texas is suggesting, if I understand it—that while we are going ahead and unilaterally asserting a 200-mile limit with regard to fishing, we are going to continue to say that other nations cannot do that. There is something a little inconsistent about that.

Mr. BENTSEN. What I cannot understand from the Senator's viewpoint is whether he is arguing against my amendment or is arguing against the 200-mile extension. If one would assume that the 200 miles is going to carry, then we should put some language in to make it practical. We already see some of these other countries extending their fishing zones out to 200 miles. We should have some reciprocity in this; we should have a *quid pro quo*.

It is one thing to argue against the 200-mile extension—and I think that is what the Senator is doing—but it is something else to argue against this amendment to make the 200-mile extension more feasible and more practical.

Mr. GRIFFIN. I agree. Just as we have asserted, properly, that these other nations in South America have been in violation of international law and unilaterally, without a negotiating agreement, have asserted 200-mile jurisdiction. I find it a little difficult to understand how we can proceed now and do the same thing ourselves.

Mr. BENTSEN. Has the Senator from Michigan opposed all amendments up to now?

Mr. GRIFFIN. No, not necessarily.

Mr. BENTSEN. That is a qualified statement.

Mr. GRIFFIN. But I am opposed to the bill.

Mr. BENTSEN. I understand that.

Would the Senator object to trying to improve the bill? Is that not what the Senator from Texas is doing?

Mr. GRIFFIN. I cannot see that this is an improvement at all.

Mr. BENTSEN. Mr. President, is this on the time of the Senator from Michigan?

The PRESIDING OFFICER. It is on the time of the Senator from Texas.

Mr. GRIFFIN. I think the Senator has answered my question. It is clear that there is a great deal of inconsistency and no logic to this, so far as I can see, and I will have to oppose the amendment.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. STEVENS. Mr. President, I commend the Senator from Texas for his approach and for trying to work out the very difficult problem of assuring that American fishermen operating in waters claimed by another nation will receive the same treatment that we are prepared to give to foreign vessels within our waters. One of the purposes of this bill is to set up a measure of due process for the foreign fishing vessels that are within the waters over which this bill would give the United States jurisdiction.

I think the approach advocated by the Senator from Texas is one that will get their attention. Distant water fishing fleets of the United States do deserve our consideration, as we try to protect our domestic fishing fleets from the intrusions off our shores by nonregulated foreign fishing fleets.

Will the Senator from Texas permit me to ask unanimous consent that the substitute I have offered for his amendment, if it is adopted, be inserted in the bill on page 45, after line 10? I find that I failed to obtain that agreement yesterday. That is where it should appear in the bill. If the Senator will permit me to do so, I will make that unanimous-consent request.

Mr. BENTSEN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. BENTSEN. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska is not present for his 15 minutes. Therefore, he has forfeited it.

Mr. BENTSEN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the substitute amendment by the Senator from Alaska (Mr. Stevens).

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, has the substitute amendment of the Senator from Alaska been adopted by voice vote?

The PRESIDING OFFICER. Not as yet.

The question is on agreeing to the substitute amendment.

Mr. GRIFFIN. If it is adopted, will there be a vote on the Bentsen amendment?

The PRESIDING OFFICER. That is correct.

The question is on agreeing to the substitute amendment of the Senator from Alaska (Mr. Stevens).

The substitute amendment was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Texas, as amended.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Michigan was recognized, and the Senator from Alaska will be recognized immediately after the Senator from Michigan.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas (Mr. Bentsen).

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I was unavoidably detained and could not speak to the measure that the senior Senator from Alaska proposed for correcting the Bentsen amendment. I want to speak very briefly in opposition to the Bentsen amendment.

Mr. BENTSEN. Mr. President, if I may interrupt, we had an agreed time and the time was up. I ask unanimous consent that 5 minutes to each side be allowed in order that the distinguished Senator from Alaska may speak to the amendment.

Mr. GRIFFIN. Mr. President, reserving the right to object, how much time was yielded back?

The PRESIDING OFFICER. Better than 15 minutes.

Mr. GRIFFIN. Would it be acceptable to the Senator from Texas to vitiate that yielding back, in the event that more time is needed?

The PRESIDING OFFICER. The Chair is advised that the time of the Senator from Texas was used up. The Senator from Alaska used a great portion of that. The Senator from Alaska would have the time.

Mr. BENTSEN. Since the Senator from Alaska did use my time, why not use such time as was vitiated and take it back and divide it between the two of us?

Mr. GRIFFIN. Fine.

Mr. GRAVEL. How much time was left?

The PRESIDING OFFICER. Twenty-three minutes.

Mr. GRIFFIN. That will provide a little more time if necessary. That is my point.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the 23 minutes be reinstated and that that time be equally divided between the Senator from Alaska (Mr. Gravel) and the Senator from Texas.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. GRIFFIN. If the Senator from Alaska is not prepared to begin, will he yield me a few minutes?

Mr. GRAVEL. I am happy to yield.

Mr. GRIFFIN. Mr. President, the pending Bentsen amendment further compounds the problems of S. 961 by requiring foreign coastal nations to give better treatment to U.S. fishermen than the fishermen of those nations would receive under the provisions of S. 961. Such a proposal, if adopted, would—

Greatly increase the potential for international conflict;

Open the door for reciprocal action by other nations against the United States; and

Virtually guarantee the failure of the Law of the Sea Conference.

Quite simply, this amendment creates a double standard. On the one hand, foreign fishermen must abide by the unilateral restrictions imposed on them under this bill—without regard to existing international agreements.

But when it comes to the rights of U.S. fishermen in foreign waters, other nations would have to live up to existing obligations or face the prospect of a U.S. import embargo on its fish and fish products.

Apparently it is all right for the United States to tell the world how it can fish within 200 miles of our coast—but it is not all right for a foreign country to restrict U.S. fishing beyond a 12-mile zone if that country's "claim of jurisdiction—is not recognized by the United States"—or is in "violation of an existing international agreement."

Are my colleagues suggesting that if the Japanese or the Soviet Union were to determine that their fishing vessels are not being provided with the opportunity to capture an appropriate portion of the fish harvest in waters under U.S. jurisdiction—or that the United States was not negotiating in good faith—they would be free to retaliate with restrictive trade practices against U.S. goods? Under the doctrine of reciprocity, a well recognized principle of international law, this Nation would be obligated to accept as binding against the United States, the same types of constraints and mandates as contained in these amendments.

In addition, Mr. President, these amendments would require the United States to prohibit foreign imports of fish or fish products in situations where it was determined that U.S. vessels were seized by other nations in violation of the provisions of this amendment. Such a mandatory response on the part of this country goes far beyond existing fishery embargo restrictions which allow the United States to respond in a discretionary and thereby more flexible manner.

The effect of this amendment is to change entirely the character of the bill from one that is ostensibly designed to protect and conserve the living resources of U.S. waters to one that is clearly designed to insure that this Nation have first priority or the fish resources of the entire world.

If indeed the objective of the proposed amendment is to increase the probability of achieving a favorable agreement with foreign nations regarding U.S. fishing activities in waters adjacent to their coasts, I believe that that objective is going to be made all the more difficult to achieve if this amendment becomes law. Foreign nations will be even less likely to negotiate with the United States if we take such an inconsistent position with respect to the rights of U.S. fishermen and their foreign counterparts.

Mr. President, I realize my colleague from Alaska (Mr. Stevens) has made an attempt to improve the amendment offered by the Senator from Texas. Although I agree that it does represent an improvement, the fundamental objections have not been removed.

If the Law of the Sea Conference is to have a chance of success, unilateral measures such as this one will only make the task far more difficult. I hope the amendment will be defeated.

I thank the Senator for yielding.

Mr. GRAVEL. Mr. President, I would like to have the Senator from Texas on the floor, because I wish to ask some questions relative to the amendment.

Mr. STEVENS. Since I am the author of the amendment, will the Senator address the questions to me?

Mr. GRAVEL. I am happy to do that.

Perhaps our colleague can tell us, with respect to the shrimping activities off the coast of Brazil, how much our shrimpers take in. Does he know?

Mr. STEVENS. I do not have the statistics on the distant water fishing fleets available. They are in the record of the hearings. It is some 7 percent, my staff tells me.

Mr. GRAVEL. I am talking about dollar amounts. If I understand the amendment, it says that if they exclude our shrimp fleets over there, we will embargo shrimp, not the rest of their fisheries' product. Is that correct?

Mr. STEVENS. It is not quite correct. In effect, it says that if the Secretary determines that a foreign nation has refused to negotiate or refused to live up to a treaty then the fish products from that particular fishery could be embargoed.

Mr. GRAVEL. All fish products?

Mr. STEVENS. Fish products from that particular fishery.

Mr. GRAVEL. What are we talking, is it shrimp, anchovies, tuna?

If they only establish rules that impair our shrimp fishermen from fishing off Brazil, what are they embargoing, all fisheries' products?

Mr. STEVENS. Just shrimp products.

Mr. GRAVEL. Pardon?

Mr. STEVENS. Just shrimp products.

Mr. GRAVEL. OK; the figures I have, that we fish off the coast of Brazil, are worth \$10 million. That is, the catch our shrimpers have off Brazil.

Now, Brazil exports to the United States \$4 million. So, mathematically, who are we punishing? We are punishing ourselves, because they will turn around and do what the Senator is afraid they are doing, but they are the beneficiary.

Mr. STEVENS. On the contrary, I think we would be establishing a very good principle of international reciprocity in the fishing area.

I do not think we can look to the value of a particular fishery, of any nation when determining the value of the fleets because they go from area to area during the period of a season.

We are talking primarily about tuna, which is a migratory fish, going in and out of the jurisdiction of many nations.

This concept says we want good-faith negotiations, we want good-faith compliance with agreements we have entered into and we want to make certain that we do not have any seizures in an area not recognized by the United States.

I thought my colleague was arguing yesterday he was afraid we might do just those things to foreign fleets.

One of the reasons I put this in is because we are trying to demonstrate again that we are willing to equitably treat foreign fleets within our waters provided they negotiate in good faith affording these same rights to our high seas fishermen.

If we try to put a dollar value on a particular fishery, no one will understand what we are doing.

Mr. GRAVEL. We have to, otherwise we do not know what we are doing.

I will state that the nation of Brazil exports to the United States some \$30 million in fisheries products. Now, our people catch off Brazil \$10 million in shrimp.

If they deny us that \$10 million for our people, then the most the Senator's bill would do would be to punish them by denying them \$4 million that they could not export to the United States, that it would still leave the \$26 million.

What kind of punishment is that to a country in this regard?

Mr. STEVENS. It is highly important to us, because my staff advises me that 15 percent of the shrimp we take is off of the coast of other nations within their 200-mile limit and 85 percent of our shrimp is taken within 200 miles of our coast.

The reciprocity principal is involved. I think it has a great deal to do with our own bill as well as the desire of the people the Senator from Texas represents who want to be reassured that they can continue to fish their distant water fishing grounds.

Mr. GRAVEL. It still does not add up in the arithmetic in question, that kind of rhetoric, but in dollars and cents it shows me the Texans will lose \$10 million, the Brazilians will be punished by \$4 million, and the rest of the Nation will still import from Brazil \$26 million.

The Senator can talk about the rhetoric and the reciprocity all he wants, but the arithmetic in this case, in Mexico, Ecuador, and Panama, shows the amendment is really, in point of fact, ridiculous.

Let me just add, that is how it works out economically. It still—the point I was making yesterday—is considerably more important than the short-run economics involved, and that is that this is the beginning of a trade war.

Here we have gone for decades trying to get the world into a situation where we are lowering trade barriers.

I predicted in a paper I wrote some months back that by taking 200 miles unilaterally, we were placing in motion the seeds of an international trade war.

Proof of that statement is that one has to come in right now with an amendment, not even waiting for the bill to pass, but now, to set the trade war in motion, because if we begin to embargo other people's products, does the Senator think for a moment they will stand by and not retaliate? Then we escalate. So we are going to punish Brazil who does something they think is right to do and they retaliate and we begin the entire ripple effect around the world.

Here, we compound this difficulty trying to negotiate a new treaty with Panama, in our relations with South America, which are very delicate. We throw this in the breach and the prediction I made that we would have anarchy of the seas is a very mild prediction, at best.

I think it is very tragic that the committee and my colleague have not gone into the arithmetic of it and just talk in terms of rhetoric.

I will state again on Brazil, we are not punishing them very much. The people getting punished are the people of Texas. The shrimpers go to Brazil and catch \$10 million worth of shrimp. We import from Brazil \$4 million worth of shrimp.

So under the bill, the most we can do is embargo \$4 million worth of shrimp.

We have already lost the ability to catch \$10 million, but we import from Brazil some \$6 million worth of fishery products.

If you want some teeth in this and get the trade war working efficiently, at least, all you ought to do is embargo all their fishery products, but the way it is structured, we have the people of Texas thinking we are taking care of them, but they will be the first to go.

Mr. JAVITS. Mr. President, I shall briefly explain my position in support of this amendment, offered by Senator Bentsen as modified by Senator Stevens.

I am generally opposed to unilateral boycotts as a mechanism for vindicating commercial interests—even legitimate commercial interests as are involved here with respect to shrimp fishing.

The language of this amendment is carefully framed to leave discretion in the Secretary of State, who is in a position to evaluate the potential from negotiation that might be derived before taking a step so drastic as a commercial boycott.

I have grave doubts about this bill at the present time, particularly since the Law of the Sea Conference will reconvene in New York City in March of this year.

However, I believe it is useful, in the context of this legislation, to reaffirm the authority of the Secretary of State to the decisive action to vindicate our legitimate and crucial fishing interests.

I, therefore, will support this amendment.

The PRESIDING OFFICER. All time of the Senator from Alaska (Mr. Gravel) has expired.

Mr. GRAVEL. We are still arguing on whose time?

The PRESIDING OFFICER. On the Senator's time.

Mr. GRAVEL. My time has expired. Is there any time remaining?

The PRESIDING OFFICER. No. On the time assigned to the Senator from Texas (Mr. Bentsen), but he is not on the floor. The Chair will have to leave it as he did with the Senator from Alaska and forfeit the time of the Senator from Texas.

The yeas and nays have been ordered. The question now is on agreeing to the amendment as substituted. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Indiana (Mr. Bayh), the Senator from Hawaii (Mr. Inouye), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from Minnesota (Mr. Mondale), the Senator from North Carolina (Mr. Morgan), the Senator from Mississippi (Mr. Stennis), the Senator from Illinois (Mr. Stevenson), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Morgan) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Wyoming (Mr. Hansen) and the Senator from Nevada (Mr. Laxalt) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. Fong) is absent due to illness in the family.

The result was announced—yeas 71, nays 16, as follows:

[Rollcall Vote No. 7 Leg.]

YEAS—71

Allen	Garn	Nelson
Barlett	Hartke	Nunn
Beall	Haskell	Packwood
Bellmon	Hatfield	Pastore
Bentsen	Hathaway	Pearson
Biden	Helms	Pell
Brock	Hollings	Proxmire
Brooke	Hruska	Randolph
Buckley	Huddleston	Ribicoff
Bumpers	Humphrey	Roth
Burdick	Jackson	Schweiker
Byrd, Harry F., Jr.	Javits	Scott, Hugh
Byrd, Robert C.	Johnston	Scott, William L.
Cannon	Leahy	Sparkman
Case	Long	Stafford
Chiles	Magnuson	Stevens
Church	Mansfield	Stone
Curtis	Mathias	Symington
Dole	McClellan	Talmadge
Domenici	McIntyre	Tower
Durkin	Metcalf	Weicker
Eagleton	Montoya	Williams
Eastland	Moss	Young
Ford	Muskie	

NAYS—16

Baker	Goldwater	McClure
Clark	Gravel	Percy
Cranston	Griffin	Taft
Culver	Hart, Gary	Thurmond
Fannin	Hart, Philip A.	
Glenn	Kennedy	

NOT VOTING—13

Abourezk
Bayh
Fong
Hansen
Inouye

Laxalt
McGee
McGovern
Mondale
Morgan

Stennis
Stevenson
Tunney

So. Mr. Bentsen's amendment (No. 900), as amended, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President—

The PRESIDING OFFICER. Will the Senator from Washington suspend for a moment? The Senate will be in order. Senators will either return to their seats or go to the cloakrooms with their conversations.

Mr. MAGNUSON. Mr. President, as far as the committee is concerned, and we have canvassed the Senators fairly well, with the exception of the junior Senator from Alaska, we have no more amendments to submit, and we are ready to vote on the bill, unless there are further amendments.

I understand they are trying to arrive at an agreement between the junior Senator from Alaska and the leadership to see if we can vote today, which I would like to do.

While they are doing that, the senior Senator from Alaska has, I now understand, a rather minor amendment.

Mr. STEVENS. It is a technical amendment. I am sending it to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Page 46, line 21, delete the period and insert the words "except that any such measure shall not have economic allocation as its sole purpose."

Mr. STEVENS. Mr. President, just briefly, this is an amendment to the national standards that are established by title II of this bill. Subsection (5) of those standards provides:

Management and conservation measures shall, where appropriate, promote efficiency in the utilization of fishery resources.

The intent of this amendment is to make certain that those management and conservation measures shall not be for the sole purpose of economic allocation of the fishery resources. We have no such intent.

In effect, I am saying that a regional council could not, for example, say that only vessels over a certain size can fish for one species, and only those under another size for another species.

We have no intention to permit the regional council to have economic authority over fisheries resources. They are to have conservation and environmental authority, but not economic.

As such, I hope this proposal will be accepted as a technical amendment.

Mr. GRAVEL. Mr. President, I have no objection. I would just like to make the proviso that it be considered as original text. That this amendment, along with the last amendment, be considered as original text.

Mr. STEVENS. I would have to object to that. The Senator from Texas is not agreeable to it.

Mr. GRAVEL. He did agree to it just now, right alongside the Senator from Washington.

Mr. STEVENS. Then I suggest the absence of a quorum, to make sure that the Senator from Texas understands.

Mr. GRAVEL. Mr. President, I object to that unanimous-consent request, and suggest the absence of a quorum.

Mr. STEVENS. I do not have a unanimous-consent request pending. I moved the adoption of my amendment.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. Fannin]. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I withdraw my objection to the request of my colleague from Alaska. The Senator from Texas has no objection to his request.

The PRESIDING OFFICER. The objection is withdrawn.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the Bentsen amendment and the present technical amendment that is being offered be treated as original text.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, I repeat that insofar as I, the senior Senator from Alaska, and the committee know, there are no further amendments to be offered to the bill. If anyone has any amendments, now is the time to offer them.

I was hopeful that we could get a rolleall vote on the bill today or tomorrow, but I do not know. We are through with the committee amendments. But so far as I know, no other amendment will be offered by the committee or the managers of the bill.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. GRAVEL. Mr. President, I have been working on an amendment with other Senators. It is a very intricate amendment. It is one that I would like to present to the Senator from Washington as soon as we get our work done. I would like to present it to the Senator from Alaska, and we probably could work out an accommodation in a spirit of compromise. If that could be done, obviously, we would have no difficulties on any facet of time. But we are at the very crucial part. It is a very intricate amendment. It goes to all facets of the bill. That is the reason why I was guarding so preciously the right to be able to amend. Obviously, that right could be objected to.

Mr. MAGNUSON. The Senator has the right to do so at this time.

Mr. GRAVEL. I must say to the Senator that he has labored long and hard with his committee—many months and years, for that matter—

and he cannot expect us to create something of equal strength in the period of a day or two. So I am not trying to cause a delay. There is nothing that is pressuring this body so that we cannot have patience a moment and secure the final form of this amendment and present it to the Senator from Washington. Other Senators who feel very strongly on the subject will join in this amendment.

Mr. MAGNUSON. I do not have my feet in concrete with respect to any legislation. We have had a whole month during the holidays, 20 days in January. We have had hearing after hearing. It has been before three committees, two times. That is what the consensus was.

I know that in the management part of the bill, there has been some difficulty. It is a matter of how you write it. We cannot satisfy everybody. We have heard a lot of proposals about it, even to the extreme that we have a Director of Fisheries who would have absolute power, back down to a commission, a separate commission. Finally, we worked out this measure, and this was the consensus about the best way to manage it. We cannot satisfy everybody. I know fishermen pretty well. They are pretty hard to get to agree on a lot of things. They are independent people.

I will be glad to look at the Senator's new amendment. But we have been here 4 days, and I would like to get this bill passed, as do the other Members of the Senate.

We just had a rollcall vote in which there were 70-some votes against an amendment. There is no use having more rollcall votes on amendments if that number of Members of the Senate are against these things. It just takes up a lot of their time. I do not know how long we can wait with this. No one has any so-called amendment or compromise except one Senator—the Senator from Alaska.

Mr. GRAVEL. I beg to differ.

Mr. MAGNUSON. That I know about.

Mr. GRAVEL. This compromise will be joined in by a substantial number of Members of the Senate—the leadership of the Senate.

Mr. MAGNUSON. If it is the State Department compromise, count me out.

Mr. GRAVEL. I assure my colleague that the reason why we have problems of delay right now is that it did not come from the State Department. I got the idea from a statement made by a Member of this body, on the floor of the Senate. I did not realize the import of what this Senator was suggesting. We did further research. I think the Senator can appreciate the fact that we do not have at our disposal the total research capability of the committee. We have not been able to work with the alacrity with which a committee would have worked, but we have been using all diligence and all haste to try to get language which is technically correct.

I do not think the Senator would want to see slipshod work presented to this body. All I am saying is that 5 days ago, I did not appreciate that this proposal was possible. Other Senators did not appreciate that it was possible. But it will take us a day or so more until we have a product to present privately to the Senator from Washington.

Mr. MAGNUSON. I want the Senator to present it to the Senate, not to me.

Mr. GRAVEL. As a courtesy, though, we would be prepared to offer it first to the Senator from Washington. I would not want to offer something complicated without his having a chance to go over it thoroughly, so that when he speaks about it on the floor, he will speak from his extensive years of experience in this area.

Mr. MAGNUSON. I will take a good, long look at it while the Senator is talking about it. I will have plenty of time. [Laughter.]

Mr. GRAVEL. I assure my colleague that I can have it to him, in hand, for the weekend.

Mr. MAGNUSON. The Senator from Alaska just wants to go over until next week, does he not? Is that what he wants?

Mr. GRAVEL. If that were the case, I could tell my colleague that we could file a cloture motion, and it will have to go over until next week. That is not my intent. My intent is to get a reasoned compromise.

So I can tell my colleague that if he is looking to save time, this would be the way to save time. We would like to sit down with him privately and explain it to him.

Mr. MAGNUSON. I do not know how we are saving time. Why does the Senator not present it, and we will discuss it? That is the way to get at these things.

Mr. GRAVEL. I am afraid that we are not technically in a position to present it today.

Mr. MAGNUSON. How long does it take? This has been going on for weeks and months, and now we are getting letters from the State Department. It is like a broken record—the same old thing, over and over and over and over again. I respect their opinion, but let us vote on something here.

Mr. GRAVEL. This is not a State Department initiative. This is an initiative of the membership of this body. If we could have the time to do our work properly and present it to the Senator, we might well have a compromise.

Mr. MAGNUSON. This a committee of just one. But if the Senator wants to hold up the matter, he has that privilege.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MAGNUSON. The junior Senator from Alaska is correct; I am becoming a little worked up about this thing. I have been going at it now for 18 long years. We have spent 4 days on the bill; we are ready to vote. The Senator can vote against the bill and present amendments. He can do anything that is his privilege as a Senator. But it is just another stall proposition. Let us get down and settle this matter one way or another.

Mr. GRAVEL. I assure my colleague that the moment he reads this amendment, he will not call it a stall. It is a substantial proposal to work out an agreement to accomplish the same goals under the Magnuson bill.

Mr. MAGNUSON. It is against the 200-mile limit, is it not?

Mr. GRAVEL. It is an amendment to protect the fish that the Senator is concerned about, to have the management proposals that he is concerned about. We are trying to do exactly what the Senator wants to do, without any risk. Is that so unreasonable? That is certainly within the context of the Senator's wishes.

Mr. MAGNUSON. My wish is to get the bill passed, and my wish is to have a vote on the bill. Maybe I will lose it when we have to vote. I do not know. I doubt it. Maybe we will lose it. We still have to go to conference with the House. That is going to take a long time. The House has passed this bill, and they are anxious that we do something. They passed it by a vote of 2 to 1. Then we waited and waited. Now, we are supposed to wait again.

Mr. President, as far as I am concerned, we are ready to vote. If anybody has an amendment, let him present it.

Mr. GRAVEL. Mr. President, I can state my case very simply. I shall be prepared to vote as soon as I can get this amendment technically in order and present it to the body. I think it is a significant amendment. I think it will be appreciated as a significant amendment.

Mr. STEVENS. Will the Senator yield to me?

Mr. GRAVEL. Yes.

Mr. STEVENS. I appreciate what the Senator is saying. We try to act on the basis of fairness here. This is Thursday. I understand we will be voting very soon. The distinguished majority whip will be asking, I presume, for a consent agreement on the Bush nomination. Will the Senator agree on a time limit so that we can vote on this bill and his amendment, following the Bush nomination?

In other words, the Senator will have an opportunity to present his amendment and we agree that the time limit on all other amendments not taken up before the Bush nomination, will be 2 hours. That way we can vote on the bill for certain on Tuesday? Would the Senator agree to that?

Mr. GRAVEL. Will I agree to a vote on the amendment on Tuesday?

Mr. STEVENS. On his amendment and the bill on Tuesday.

Mr. GRAVEL. If the amendment passed and he objected to the amendment, the Senator may not want to vote on it then.

Mr. STEVENS. I am willing to take that risk.

Mr. GRAVEL. If we could have a conference with those who will be joining the amendment, maybe——

Mr. STEVENS. I have conferred. We are prepared to set a time limit now, as much time as the Senator wants on each amendment, and if possible, we will vote on those amendments before the Bush nomination; in any event, right after the Bush nomination is disposed of. Then vote on the bill at a time certain—I will agree to 1 hour on the bill, and 2 hours on each amendment and whatever else the Senator wants on his amendments. If he wins, fine. We will still go to conference, my friend. I still have a voice in conference.

Mr. GRAVEL. I wish to hear the views of the distinguished assistant minority leader.

Mr. GRIFFIN. I always find it difficult to agree to a time limitation when I do not know what the amendments are that we will have to vote on. Perhaps we can have a quorum call and try to get more information and have an opportunity to check with some of the others that I know are opposed to this bill.

Mr. ROBERT C. BYRD. Will the Senator yield before he asks for a quorum call?

Mr. GRIFFIN. I yield.

The Senate continued with the consideration of the bill (S. 961) to extend, pending international agreements, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

Mr. PACKWOOD. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 49, line 2, after "Alaska" insert a comma and "Oregon.". [Sec. 202 (a) (6)]

On page 49, line 19, before the period insert "and Oregon is entitled to one member". [Sec. 202 (b)]

Mr. PACKWOOD. Mr. President I have cleared this amendment with both Mr. Stevens and Mr. Magnuson. It adds one resident of Oregon to the Commission for the Alaska territorial waters. There are three from Washington, five from Alaska, this will add one Oregonian. That is in rough proportion to the number of Oregon fishermen fishing in those waters.

Mr. STEVENS. Mr. President, it is my understanding that the Federal representative would become a nonvoting member. [Sec. 202 (c) (2)]

Mr. PACKWOOD. I have another amendment on that.

Mr. STEVENS. Yes.

Well, I would want to make sure these amendments are considered en bloc because they are delicate for us to be involved in.

Mr. PACKWOOD. I will be happy to offer the other amendment and ask they be considered en bloc.

I send to the desk another amendment.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. GRAVEL. Mr. President, I ask unanimous consent that these amendments be considered as original text.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. They will be considered as original text.

Mr. PACKWOOD. As to these amendments being considered en bloc, I would say the Federal member appointed to these commissions would be a nonvoting member. [Sec. 202 (c) (2)]

The PRESIDING OFFICER. The second amendment will be stated.

The assistant legislative clerk read as follows:

On page 50, line 23, after "serve" insert "as a non-voting member". [Sec. 202 (c) (2)]

Mr. PACKWOOD. Mr. President, the sum total of these two amendments is, first, a resident of Oregon would be added to the Commission involving Alaska territorial waters. [Secs. 202 (a) (6) ; 202 (b)]

Two, on all commissions, the Federal member that is appointed will be a nonvoting member. [Sec. 202 (c) (2)]

Mr. STEVENS. Mr. President, it is my understanding with regard to the Alaska Regional Council, there will still be nine members. Instead

of having a Federal voting member we will now have a voting representative from Oregon. [Secs. 202(a) (6) ; 202(b) ; 202(c) (2)]

In effect, they will all be nine non-Federal members; five from the State of Alaska, three from the State of Washington, and another from the State of Oregon. That is roughly equivalent to the fishing population in the area represented by the Alaska Regional Council.

On that basis, I would have no objection. I think it is a reasonable proposition.

Mr. MAGNUSON. I have no objection, either. This was called to my attention earlier. It was overlooked and we should have a representative from Oregon.

Of course, this is just about in ratio to the amount of fishing by the three States.

Mr. PACKWOOD. That is correct.

Mr. MAGNUSON. I have no objection.

The PRESIDING OFFICER. The amendments of the Senator from Oregon will be considered en bloc.

The amendments were agreed to.

The PRESIDING OFFICER. The amendments are adopted and considered as original text for the purpose of further amendments.

Mr. JACKSON. Mr. President, I am pleased to take the opportunity to express my support for S. 961, the Magnuson Fisheries Management and Conservation Act. No doubt this bill, popularly known as the 200-mile-limit bill, will when passed become the most important development in the long history of one of the Nation's first industries.

The protection of our coastal fisheries has long been a major issue in this country and has been debated by Congress at various times since we became a free nation. It seems, therefore, appropriate that the Congress should, in this Bicentennial Year, be on the brink of a restatement of strong interest in the conservation and management of our fisheries. For far too long we have witnessed the decline of many of the more important stocks in our coastal waters. I firmly believe that S. 961 will arrest that decline, and give the United States, for the first time, adequate enforcement authority to end the protein piracy of foreign nations operating with near abandon within sight of our shores.

This bill is also the first major effort to rationalize our national fishery management program, based on a joint Federal-State partnership and guided by clearly articulated management standards. Too often this facet is ignored by those who have opposed this legislation. I consider the management features as a functional reason for supporting this bill.

There is no doubt in my mind that this legislation is needed to protect our fisheries—the views of our Department of State notwithstanding. It is significant to me that Ambassador Donald McKernan, formerly the State Department's chief negotiator of fishery agreements, has expressed his strong support for Senator Magnuson's bill. Ambassador McKernan has no motivation except to report the truth about the status of our fisheries. He, more than anyone else in this country, understands the frustration and the too-frequent futility of relying upon international negotiations as the sole protectorate of our fish stocks. After reviewing the results of recent fisheries agree-

ments claimed by opponents of S. 961 as removing any urgent need for the bill, Ambassador McKernan has said:

There is no assurance that "many" of our fisheries will be rehabilitated in six or seven years as a result of recent bilateral or multilateral actions by our government. We do not have adequate control over foreign fishing, neither adequate surveillance nor enforcement, to be at all certain we will even be able to rehabilitate those fisheries depleted by foreign fishermen unless we achieve greater control over the activities of those fishermen.

As an example of what happens to an internationally regulated fishery when a highly sophisticated foreign fleet concentrates its efforts, let us look at the haddock fishery which has supposedly been protected by the regulations of the International Commission for Northwest Atlantic Fisheries, ICNAF. In 1960, the United States took nearly the entire catch from this fishery—43,341 metric tons, MT, out of 43,801 metric tons total catch. Canada landed the remaining 460 metric tons. Up through 1963, this situation remained relatively unchanged. But in that year the Russians arrived in our waters and directed their efforts on the haddock fishery. In that year the Soviet fish took 81,882 metric tons, about 75 percent more than U.S. fishermen landed. The U.S. total was 57,027 metric tons, hardly 13,000 metric tons more than they had landed in 1960.

In total, 154,725 metric tons of haddock were caught in 1965. In 1966, the results were similar, but the Canadians increased their catch on Georges Bank by a large measure. Because of this tremendous pressure, in less than 5 years the total catch of haddock off New England had dropped by an order of magnitude—to just 12,852 metric tons overall in 1970. By 1974, ICNAF adopted a zero quota for this species in subarea 5, covering the once prolific Georges Bank.

This entire sorrowful episode occurred while our fishermen pleaded for greater protection, and we instead put our faith in ICNAF.

But why does ICNAF fail? It fails because it must rely upon the good faith of each individual nation to police the terms of the annual ICNAF regulations and to punish violations by its citizens. Now I ask anyone to prove to me that a nation, such as the Soviet Union, will require that its fleet refrain from catching fish off our shores while the catching is still good and the jurisdiction limits narrow. As Senator Stevens mentioned the other day, the Soviets said a computer error caused them to exceed their 1975 ICNAF mackerel quota by 100 percent. And what could be done about it? We cannot throw a computer in jail. And I ask you—what incentive do they have to prevent further computer errors? This year the U.S.S.R. had the worst grain harvest in recent times. Firm directives have now gone out to the Soviet fishing fleet, the world's largest, to bring in more protein. What will come first, the protein needs of mother Russia or the conservation needs of the fisheries around the world, including our own?

The Soviets are not the only offenders. Other nations have flocked to the waters within 200 miles of U.S. shores to take their share out of some of the most heretofore abundant fisheries in the world. Intense pressure, both past and potential, is evident in the list of overfished species—Alaska pollock, Pacific ocean perch, Pacific halibut, Atlantic halibut, haddock, yellow tail flounder, and others. The loss of maximum yield of these fisheries is both a measure of past abuses and a portent of possible future destruction if we allow the jurisdictional status quo to continue. Without a 200-mile limit, the trend of decline will not stop,

for the conservation incentive is lacking in the international bodies we have today. This Nation must have S. 961 to protect adequately this major source of protein.

It has been argued that passage of this bill is inimical to U.S. national security interests. I am not persuaded by these arguments. As one who has been long concerned about maintaining a strong military posture in this troubled world, I am sensitive to the need for flexible movement by our military throughout the world. But maintenance of such flexibility does not hinge on what this country does to protect its fishery resources.

S. 961 is a reasonable measure, drafted to be in line with the general consensus on a 200-mile economic resource zone evident in the U.N. Law of the Sea Conference. The bill cannot be characterized as a pure exercise in self-interest by the United States for its provisions are actually narrower in scope than those found in the single negotiating text developed in the last session of that Conference. The bill expressly preserves existing navigation rights in the 200-mile fishery conservation zone. **[Sec. 2(c)]** It does not create a territorial sea, as some have erroneously stated. And it cannot be cited, with any force of persuasion, as a basis for establishing a territorial sea.

Special purpose jurisdictional zones have had a long history in law of the sea. Such zones encompass less than full sovereignty and are created to deal with problems of general concern. Presently, zones beyond the territorial sea recognized for enforcement of customs, fiscal, immigration or sanitary laws, and for fishery management jurisdiction. Consequently, S. 961 has substantial precedent and is not a major deviation from traditional lawmaking in the ocean. In fact, the limit which our Department of State claims is the only permissible fishery limit—12 miles—is not the subject of any treaty. The 12-mile fishery limit came into being by a concert of unilateral actions taken by several nations, including the United States.

In summary, Mr. President, I believe the Congress has had ample opportunity to consider very carefully the pros and cons of S. 961. I am confident that my colleagues will join me in expressing their support for this long overdue conservation measure.

Mr. WILLIAMS. Mr. President, I wish to express my strong support for the Magnuson Fisheries Management and Conservation Act, S. 961, now pending before the Senate. This legislation will extend the jurisdiction of the United States over certain ocean areas and fish to a limit of 200 miles in order to protect the domestic fishing industry.

Over the past 15 years, there has been an alarming depletion of certain U.S. fish resources—some to the point of near extinction. This has been the result of intensive fishing in U.S. coastal waters, primarily by foreign fishermen. Moreover, this fishing has interfered with the livelihoods of U.S. fishermen, and in the process U.S. fishing gear has been destroyed without compensation for the massive losses which have been suffered. The frightening depletion of these fisheries severely threatens the social and economic welfare of the coastal areas concerned. It also threatens an irreplaceable resource which contributes to the food supply and economy of the Nation as a whole, and these critical dangers have prompted certain Members of Congress to work diligently on a bill to help conserve these stocks and the U.S. fishing industry.

The main purpose of this bill, which I am pleased to cosponsor, is to extend the exclusive fisheries zone of the United States from 12 to 200

miles as an interim measure until a U.N. Law of the Sea treaty can become effective, if one is concluded. [Secs. 2; 101; 102; 401] It regulates all species of fish except such highly migratory species as tuna, bill fishes, swordfish, sailfish, and marlin, which would be regulated by international fishery agreements. [Secs. 2(b) (1); 2(b) (2); 103]

The Department of State is announcing that no action is needed because diplomatic negotiations have been so successful. But, at the same time, the National Marine Fisheries Service says the new agreements will still result in depletion of additional stocks. All indications are that the agreements are still allowing foreign fleets to take in excess of the maximum sustainable yield. The new fishing agreements actually institutionalize excessive fishing, and they have not solved the alarming situation facing our commercial and sports fisherman. It is also important to realize that achieving an agreement on a biomass quota, which limits the overall catch, does not solve the by-catch problem nor does it protect individual stocks.

It is difficult to believe the administration is really serious about protecting this valuable, renewable resource off our coast. The Department of State admits that satisfactory fisheries management requires extension of jurisdiction throughout the range of coastal species. And an extension to 200 miles is generally accepted principle in the Law of the Sea negotiations. Yet the administration will not do what it says needs to be done.

The latest example of how unreliable the enforcement of negotiated agreements is came only 2 weeks ago when we learned that mackerel stocks had been overfished extensively by the Russians last year. The Soviet fleets violation of their quota agreement resulted in 100,000 additional tons of mackerel being taken. This was 100 percent above the allotted Soviet quota. The Soviets admitted the violation, but claimed it was due to a computer error. We cannot afford to rely on agreements that do not provide for effective conservation management of fish stocks. Another "computer error" might result in several years wait before the number of fish would recover to the point that our fishermen could begin to take meaningful catches again.

Of course, all of us would like to achieve needed protection of our fishing industry and coastal fisheries resources by an enforceable treaty. But we have been trying to arrive at a treaty since the late 1950's.

In view of the length of time it is taking to negotiate the complex law of the sea treaty and the inevitable amount of time that will elapse between the final negotiation and the entry into force and effectiveness of the treaty, the urgency of the passage of this legislation is obvious. This is particularly so if the distant water fishing nations with their heavy investments in extensive and technologically advanced fleets should decide to accelerate their fishing efforts on the high seas before possible limitations mentioned at the Law of the Sea Conference are imposed under the proposed 200-mile economic zone.

As a supporter of the bill, I believe that it should be viewed as consistent with the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas, given the developments that have occurred since then, and with the U.S. position concerning the 200-mile economic zone which is now under negotiation. Moreover, the bill attempts to protect every segment of the U.S. fishing industry. [Sec. 2] Most importantly, it does not, by its own terms, interfere with vital

naval interests such as freedom of navigation and passage through international straits or with treaties now in force. [Sec. 2]

I strongly urge prompt and favorable action on this legislation in the Senate.

Mr. CLARK. Mr. President, I have given careful consideration to S. 961, which would unilaterally declare a 200-mile fishing zone [Sec. 101], and I have come to the conclusion that it would be best not to pass this bill at this time. I believe that very cogent arguments have been made on both sides of the debate over this bill. There is no question that steps need to be taken to protect the fisheries off our coasts. I think both proponents and opponents of this bill are sincerely seeking to protect those fisheries without endangering other American interests. There are, however, two factors which have caused me to oppose this bill.

First, I believe that there is still a good chance that the United Nations Law of the Seas negotiations will lead to settlement of the incredibly complex matrix of ocean issues which are troubling relations in the world today. These issues are becoming every day more complex, as new technology creates new problems in such areas as ocean pollution and exploitation of resources of the ocean floor, as well as in fishing. These problems can in the end only be resolved by international negotiations—regardless of whether this bill becomes law.

I am disappointed that the Law of the Seas negotiations have not yet produced a generally acceptable treaty, but there is no reason for despair. When representatives of nearly 150 governments with widely divergent views on dozens of complicated and interrelated issues get together to try to reach a consensus on those issues, the process is going to take time. So far there have been two negotiating sessions, and the negotiators have produced a single negotiating text—a substantial achievement in itself considering the difficulties involved. In addition, a consensus seems to be arising on a number of issues, including the 200-mile fishing zone. It would be a tragedy if premature unilateral action by us should endanger achievement of an agreement on guaranteed passage of vessels through straits, protecting the ocean environment, agreed boundaries of territorial seas, a program for extracting the wealth of the ocean floor for the benefit of mankind, and many other important matters while seeking to protect our fishing interests. Our negotiators believe that if we pass this bill, we will be giving those who claim 200-mile territorial waters extra leverage without gaining agreement on the other problems at issue.

That brings me to the next reason that I oppose this bill. The recent actions by the International Convention for the Northwest Atlantic Fisheries, ICNAF, to cut quotas of foreign fishermen by 42 percent and to close certain areas to ground trawlers, as well as progress in bilateral negotiations, now make the conservation problem less urgent. In recent weeks a United States-Poland agreement reducing the allowable Polish catch has been announced. I understand that a similar agreement with Romania has been concluded and that new negotiations with the Soviet Union and with the Republic of Korea are scheduled for the near future.

If adequately enforced, these agreements and others like them will protect our interests and permit replenishment of fish stocks. While there appear to be some grounds for dissatisfaction with enforcement

of these agreements so far, they already seem to have partly alleviated the over-fishing problem. I understand that the ICNAF is meeting this month in Rome to draw up more effective enforcement rules, and that the U.S. representative will push strongly for a favorable outcome of that meeting. In any event, it would in my view be unwise to condemn these agreements before they have had time to prove their worth.

In summary, then, I hold strongly to the view that, whenever possible, negotiation is better than unilateral action. That is doubly true in the case of an intricate issue like Law of the Sea. And the problem of over-fishing appears less urgent now than it did a few months ago because of agreements which our Government has been working out with others. If we pursue this avenue now to protect our fisheries, we can give our negotiators time to make a real push for a definitive solution to the oceans dilemma.

NOTE

In the Record of January 21, 1976, Mr. Stevens' amendment, offered as a substitute for Mr. Bentsen's amendment No. 900, is incomplete as set forth on page S277. In the permanent Record the complete amendment will be printed, as follows:

Page 45, between lines 10 and 11, insert the following new subsection: [Sec. 205]

"(e) IMPORT PROHIBITION.—(1) If after a reasonable period of time the Secretary of State is unable to achieve an agreement affording vessels of the United States an appropriate portion of fish stocks found in areas subject to the fishery management jurisdiction of any foreign nation, in accordance with traditional fishing practices of such vessels and under conditions equal to those established under section 102 of this Act, and determines that such nation—

(A) has refused to commence negotiations;

(B) has failed to negotiate in good faith; or

(C) is not complying with its obligations under any existing agreement concerning fishing by United States vessels for fish stocks subject to such nation's fishery management jurisdiction,

he shall certify such determination to the Secretary of the Treasury.

(2) If any United States vessel, while fishing in waters beyond 12 nautical miles from the baseline from which a foreign nation's territorial sea is measured, is seized by such nation—

(A) as a consequence of a claim of jurisdiction which is not recognized by the United States; or

(B) such seizure is in violation of an existing international agreement or is not permitted by an agreement between the United States and such nation, the Secretary of State shall certify such action to the Secretary of the Treasury.

(3) Upon receipt of any such certification from the Secretary of State under paragraphs (1) or (2) of this subsection, the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the customs territory of the United States of any fish products from the fishery involved.

(4) Any import prohibition imposed under this subsection shall remain in effect (A) until an agreement is achieved, (B) until such nation complies with its obligations under such existing agreement, or (C) until the seized vessel and its catch are released, as appropriate.

(5) For the purposes of this section, the term "fish" or "fish products" means any fish, or any article which is the product of or which is composed in whole or part of such fish, caught by vessels other than vessels of the United States.

The Senate continued with the consideration of the bill (S. 961) to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in cer-

tain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, we have a series of charts and explanations for the charts. I ask unanimous consent to have printed in the RECORD at this point those portions of the explanations and those portions of the charts that are printable in the RECORD according to the rules of the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. FISHING INDUSTRY

VALUE OF LANDINGS AND IMPORTS OF EDIBLE FISHERY PRODUCTS (1973)

A nation's balance of payments is an important indicator of that nation's economic health. In fish products the United States has suffered an adverse balance of payments for several years. It is also the world's largest consumer of fish products.

In 1965, the United States produced approximately 50% of the total edible fishery products consumed in the U.S. while approximately 50% was imported. In 1970 the United States produced approximately 40% of the total while approximately 60% was imported. By 1974, 65% of U.S. consumed fish products were imported.

These facts show the outflow of dollars due to fish imports. Improvement in this balance will contribute to make our economy sounder. S. 961 should help make this improvement.

VALUE OF LANDINGS AND IMPORTS OF EDIBLE FISHERY PRODUCTS

Years	Values (millions of 1973 dollars)			Percent of total comprised by domestic
	Domestic	Imports	Total	
1965.....	409	479	888	46
1970.....	565	813	1,378	41
1972.....	658	1,233	1,891	33
1974.....	682	1,240	1,922	35

U.S. LANDINGS, IMPORTS, AND CONSUMPTION OF EDIBLE FISHERY PRODUCTS

This chart is merely another view of the relationship of imports and U.S. landings to total U.S. consumption.

The years covered are 1950-1974. During this period, total U.S. consumption of fish and fish products increased from 4.4 billion pounds to 6.5 billion pounds. During this same period, landings by U.S. fishermen decreased from 3.3 billion pounds to 2.4 billion pounds.

U.S. LANDINGS, IMPORTS, AND CONSUMPTION OF EDIBLE FISHERY PRODUCTS

Years	Landings	Imports	Total landings and Imports	Percent supplied by U.S. landings
1950.....	3.3	1.1	4.4	75
1960.....	2.5	1.8	4.3	58
1970.....	2.5	3.7	6.2	40
1974.....	2.4	4.1	6.5	37

TOTAL VALUE OF U.S. COMMERCIAL AND FOREIGN CATCH WITHIN 200 MILES OF U.S. COAST (EXVESSEL 1974)

This chart is intended to show the present estimated overall value of fish caught within 200 miles of U.S. shores. [Exvessel values means the value of the fish at dockside prices.]

From the shoreline to 200 miles, the total 1974 value of fish caught was \$1.5 billion. U.S. fishermen took approximately one-half of the total, and foreign fleets caught half.

But from the 12-mile limit, the line of existing U.S. jurisdiction, to 200 miles, foreign fleets account for 80% of the catch.

This chart does not imply that the sponsors of S. 961 intend to take over this foreign catch. On the contrary, this chart is intended to help the Senate understand the true value of the fisheries found within 200 miles of our coast.

TOTAL VALUE OF U.S. COMMERCIAL AND FOREIGN CATCH WITHIN 200 MILES OF U.S. COAST (EXVESSEL 1974)

	0 to 200 miles	0 to 12 miles	12 to 200 miles
Total catch	1,516	526	946
United States	780	570	210
Foreign	736	0	736

Note: 176.8 United States in foreign waters.

PRESENT AND POTENTIAL RETAIL VALUE OF FISH AND SHELLFISH STOCKS WITHIN 200 MILES OF THE U.S. COAST

At the present time the United States takes approximately 2.5 billion dollars worth of fish and shellfish within 200 miles of the United States coast. In the same area, foreign fishermen take approximately 9 billion dollars worth of fish and shellfish. In the year 2000 assuming no 200 miles jurisdiction is enacted by the United States, it is expected that the United States will harvest approximately five billion dollars worth of fish and shellfish within this area, while foreign fishermen will harvest approximately 15 billion dollars worth of fish and shellfish in the same area.

If 200 mile jurisdiction is enacted by the United States, in the year 2000 the United States could harvest substantially more fish than is projected in this chart.

A PARTIAL LIST OF SPECIES OF ECONOMIC IMPORTANCE TO U.S. FISHERIES SHOWING THEIR PRESENT STATUS

The list was prepared by the National Marine Fisheries Services in conjunction with its Draft National Fisheries Plan (June 1974).

It should be noted at the outset that not all of the species in the overfished list have been overfished by foreign fishermen. The California sardine, for example, was depleted by our own fishermen and conservation provisions in S. 961 apply to foreign and domestic fishermen.

Also, most of these stocks will fall within the jurisdiction of the United States when S. 961 is enacted.

S. 961 is needed to protect those stocks which have been overfished and need to recover, and also to prevent further decline of those in the "fully utilized" category.

Unfortunately, many of the overfished stocks have been subjects of bilateral and multilateral fishery agreements and overfishing was not prevented.

Potential for increased catch

Pacific rock sole.
Alaska herring.
Northeast Pacific shrimp.
Sea trouts.
King mackerel.
Mulletts.
California anchovy.
Blue crab.
Rock crab.

Jonah crab.
 Surf clam.
 Ocean quahog.
 Gulf of Mexico clupeid.
 Oysters.
 Hard clam.
 Calico scallop.
 Pacific salmon.
 Skipjack.

Fully utilized

Atlantic mackerel.
 Red hake.
 Silver hake.
 Atlantic herring.
 Atlantic squid.
 Bering Sea cod.
 King crab.
 Tanner crab.
 Pacific hake.
 Atlantic cod.
 Atlantic ocean perch.
 Bluefish.
 Menhaden.
 American lobster.
 Gulf shrimp.
 Eastern Tropical Pacific Yellowfin tuna.

Overfished

Yellowfin sole. Foreign.
 Alaska pollock. Foreign.
 Pacific ocean perch. Foreign.
 Pacific halibut. United States.
 Atlantic halibut. Foreign.
 Bering Sea herring. Foreign.
 Bering Sea shrimp. Foreign.
 Haddock. Foreign.
 Yellowtail flounder. United States-Foreign.
 California sardine. United States.
 Pacific mackerel. United States.
 Atlantic sea scallop. United States.
 Northwest Atlantic shrimp. United States.
 Atlantic bluefin tuna. United States.
 Total number of species : 48.
 Species with potential for increase : 18.
 Fully utilized species : 16.
 Overfished species : 14.
 Percent of total number of species fully utilized or overfished : 62 percent.

YELLOWTAIL FLOUNDER LANDINGS FOR THE ICAF AREA 1966-1975

The purpose of this chart is to depict the recent history of an overfished stock found within 200 miles of the New England coast.

Catches of yellowtail flounder have been regulated by the International Commission for Northwest Atlantic Fisheries throughout the period of time shown on the chart.

The U.S. share of the catch of this species has remained relatively constant throughout this period of time, peaking in 1967 and dropping to a low of 25,000 metric tons in 1974. In 1966, the Russians and the Canadians began to increase their effort on the yellowtail flounder until the stocks were driven below maximum sustainable yield, which the National Marine Fisheries Service estimates to be 35,000 metric tons.

Now that overfishing has nearly destroyed this stock of valuable fish, ICAF agreed to limit the 1976 yellowtail flounder quota to 20,000 metric tons overall. U.S. scientists feel that the quota should have been set at zero, that the stocks will continue to decline under the 20,000 MT quota, and that the stocks are "seriously depressed".

This is clear evidence that the ICNAF agreement has not been capable of preventing overfishing. By the time a firm quota was set by ICNAF, the stocks had declined nearly irreparably. And there is no assurance that foreign nations will in fact enforce the quotas.

YELLOWTAIL FLOUNDER LANDINGS FOR THE ICNAF AREA 1966-75

[Table of landings metric tons, live weight]

Year	Total catch	United States	U.S.S.R.	Canada
1966.....	46,000	33,000	4,000	8,000
1967.....	48,000	31,000	10,000	7,000
1968.....	68,000	36,000	21,000	10,000
1969.....	78,000	37,000	26,000	14,000
1970.....	70,000	36,000	9,000	24,000
1971.....	71,000	29,000	16,000	26,000
1972.....	80,000	33,000	17,000	28,000
1973.....	67,000	30,000	5,000	30,000
1974.....	51,000	25,000	7,000	18,000

HADDOCK LANDING FOR ICNAF SUBAREA 5 (GEORGES BANK) 1960-1975

The chart provides a clear profile of the effects of foreign "pulse fishing" on the haddock on Georges Bank.

The maximum sustainable yield of the haddock fishery has been estimated at 45,000 metric tons by U.S. scientists. This is the level at which U.S. fishermen harvested the stock during the early 1960s.

In 1966 the Soviet fleet began to target on the haddock and increased their catch to 81,882 metric tons in 1965. Canada also began to land more haddock in the mid-60s. [The 1966 figures are incorrectly stated on the chart. The total catch of haddock for 1966 should be 203,174 metric tons. This was the catch for all ICNAF areas, not just subarea 5. The figures for the U.S., U.S.S.R., and Canada are correct but reflect the catch for all ICNAF areas also. 1966 figures for subarea 5 alone were not available.]

By 1970, the haddock fishery was virtually destroyed. Finally, in 1974, ICNAF set a zero quota for haddock. The quota is again zero for 1976, but a 6,000 metric ton quota for unavoidable bycatch is allowed. Nonetheless a larger inadvertent bycatch is expected which does not auger well for this fishery.

HADDOCK LANDINGS FOR ICNAF SUBAREA 5 (GEORGES BANK) 1960-75

[Table of landings (metric tons, live weight)]

Year	Total catch	United States	U.S.S.R.	Canada
1960.....	45,801	45,341	0	460
1965.....	154,725	57,027	81,882	15,048
1966.....	126,978	59,989	73,410	58,980
1970.....	12,852	9,872	103	2,016
1973.....	5,889	3,286	602	1,612
1974 (0 quota).....				

¹ 203,174 includes the catch of all countries.

² Total ICNAF haddock catch.

U.S. AND FOREIGN CATCH WITHIN 200 MILES OF THE U.S. COAST IN ICNAF SUBAREA 5 (U.S. TONS)

The purpose of this chart is to demonstrate, in broad terms, the growth of foreign fishing off U.S. shores in the Georges Bank and the resultant decline in the U.S. fish catch.

Senator Gravel has circulated a series of charts in his so-called "fish sheets" depicting what he alleges to be an improvement in the standing of U.S. fish catches under the most recent ICNAF agreements. The 1976 ICNAF quotas are shown in the pie chart labeled 1976. In his fact sheets, Senator Gravel had a pie chart showing that the 1972 U.S. catch was but 17% of the total (189,550 tons and the foreign catch was 83% (925,450 tons). He then claimed that the

1976 agreement was a decided improvement over the 1972 figures. This is true, and no one disputes it.

However, the history of foreign fishing began in 1930 when the U.S. took 98% of the fish in this area. This chart puts this history in clear perspective.

Under S. 961, the U.S. will be afforded preferential rights to all fish stocks within 200 miles of shore and foreign fishermen will be allowed to fish for the surplus.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to.

The text of the unanimous-consent agreement is as follows:

Ordered, That during the further consideration of the bill, S. 961 (Order No. 498), a bill to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes, commencing at 11:00 a.m. on Tuesday, January 27, 1976, debate on any amendment (except an amendment based upon Article 7 of the Conservation Treaty of 1958, on which there shall be 3 hours debate) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any debatable motion or appeal shall be limited to 10 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment, motion or appeal, the time in opposition thereto shall be controlled by the Minority Leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That not to exceed 1½ hours of the 3 hours on the so-called "Article 7 amendment" be utilized on Tuesday, January 27, 1976, and that the other 1½ hours be utilized beginning Wednesday, January 28, 1976, at 10:00 a.m., with the vote on the amendment to occur no later than 11:30 a.m. on that date; that immediately following this vote, the Senator from South Carolina (Mr. Thurmond) is to be recognized to call up an amendment on which there shall be 7½ minutes of debate, to be equally divided and controlled by the Senator from South Carolina (Mr. Thurmond) and the Senator from Washington (Mr. Magnuson), to be immediately followed by a vote on the amendment.

Ordered further, That immediately following the vote on the amendment by the Senator from South Carolina (Mr. Thurmond), the Senate proceed to vote on final passage of the bill, without intervening motions, amendments, or appeals, except action on the committee amendment in the nature of a substitute.

Ordered further, That no motion to recommit the bill shall be in order on Wednesday, January 28, 1976, and that a vote occur on an amendment to be offered by the Senator from Alaska (Mr. Gravel) at 9:45 a.m. on that date.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 3 hours, to be equally divided and controlled, respectively, by the Senator from Washington. (Mr. Magnuson) and the Senator from Alaska (Mr. Stevens): *Provided*, That the said Senators, or either of them, may, from the time under their control of the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

JANUARY 21, 1976

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 961, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 961) to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum. The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, yesterday the Senator from Washington and I engaged in a colloquy dealing with the fish on this chart which he classified as being overfished.

I wonder whether the Senator from Washington will agree with me that in terms of trying to define the issue, the way we have it before us and what this bill is trying to do—a conservation bill—the fish represented in this area as being overfished is really the heart of the matter that faces us in this issue—that is, these are the fish that are overfished and, as a result, we have to institute some conservation practices.

That is the reason that, under his leadership, the Committee on Commerce has come forward with this legislation, to initiate the taking of 200 miles, in order to bring about the conservation of these stocks. [Sec. 101] Is that the issue as he understands it, and is that a correct description of the issue that we face, the problems we face with respect to fishing as a nation today?

Mr. MAGNUSON. All I know, I say to the Senator from Alaska, is that these are the best figures we have received from people involved in fisheries management. We are concerned about all fishery resources.

As I said yesterday, we are trying to conserve the fish within 200 miles of our shores. [Sec. 101] It does not depend on who fishes, or when they fish. We are concerned with all our fish stocks. That is the answer to the problem—all fish are to be managed. [Sec. 102] There are some we know that are overfished. At least according to the experts who gave us these figures. When the Senator asked for these figures yesterday, I said we had them and that we happened to have them on a chart. There they are. But we are also talking about potential overfishing, regardless of whether the American fishermen fish those stocks or vice versa. [Sec. 2]

I never intended to imply yesterday to exclude all foreigners—there are some stocks that we would allow other nations to fish under an agreement. [Secs. 2(c) (4) ; 201; 202; 204] But I want to be sure that there are enough for the Americans, who should do more fishing—this is my point—and encourage more U.S. fishing. If there is an abundance, we ought to go out and harvest it. [Sec. 2]

The whole purpose of this bill is to regulate foreign fishing and prevent overfishing—that is all it amounts to—and to allow the possibility of reaching conservation agreement, which can—I hope—apply within the 200-mile limit. [Secs. 2; 101; 102] This is going on all over the world.

These stocks, even if they are fully utilized, may be overfished in the future. Maybe, in some cases, we will have to say to American fishermen, “You are fishing a little too much, you know, to keep the stock alive.”

That is our only suggestion here. As the Senator from Alaska and I know, we have to rely upon the so-called fisheries scientists and the so-called fisheries experts to give us their opinion. That is all we can do.

Mr. GRAVEL. I have no quarrel with the opinion of experts, because we are essentially using the same experts, the Department of Com-

merce and other marine services. But I should like to clarify for the benefit of the Senate and the Nation where the problem is. I believe my colleague meant those types——

Mr. MAGNUSON. If the Senator will yield for just a moment, the list, so the record will be clear, was prepared by the National Marine Fisheries Services in conjunction with its draft national fisheries plan, in 1975. It should be noted at the outset that not all of the species in the overfished list have been overfished by foreign fishermen.

The California sardine, apparently, in all fairness, was depleted by our own fishermen. There are others. That is the conclusion our experts come to. This is the reason we thought the management and conservation provisions of S. 961 should apply to both foreign and domestic fishing. [Secs. 2; 101; 102; 201; 301; 303]

Mr. GRAVEL. I think that is probably a very important consideration, to find out whether or not these fish which are being overfished are in that category because of the actions of our fishermen or the actions of foreign fishermen. I am glad the Senator has come forward with that information.

Mr. MAGNUSON. May I say as a footnote here, in one case on the Atlantic coast, menhaden just suddenly disappeared, for some reason. I do not know whether that was due to our fishing or foreign fishing or a combination, but they disappeared. Perhaps they disappeared because of a change in currents or weather conditions or the law of nature of the seas, but they disappeared. We just do not have any more in some areas, as far as I know.

Mr. GRAVEL. The information that I get from the Department of Commerce is that menhaden was primarily fished within the 12 miles and menhaden had not been fished by foreign fisheries. The Senator is accurate.

Mr. MAGNUSON. I think that is correct. But they did disappear in that situation, for some reason.

Mr. GRAVEL. Correct. So if we were to tick off these fish and say, if we are trying to fix the cause of the problem, I think we probably would agree, the Senator from Washington and I, that with menhaden, if there is a problem, it would be caused by U.S. fishing.

The California sardine, the Senator from Washington stated just a moment ago, was also placed on this overfished list as a result of U.S. fishing. That would give us 2 of the list here of 14 that have been caused to be in the overfished by the actions of U.S. fishermen.

I wonder if the Senator might be aware of any of the other fish on this list, whether or not they are overfished because of U.S. or foreign effort? Maybe he could give me some additional information in that regard.

Yellowtail flounder, for instance. What is the cause of that?

Mr. MAGNUSON. I will say to the Senator from Alaska that this information is the best information we can get.

Mr. GRAVEL. But the chart does not say who caused the fish to be placed in that overfished area. That is what I am trying to find out for the edification of the body.

Mr. MAGNUSON. If the Senator will read it, we have the committee record replete with the reports from the fisheries experts and such people as to why. I suspect that whatever foreign fishing is going on is not going to help the problem.

Mr. GRAVEL. Certainly, the Senator knows that I agree with him in that respect. But I think it would be enlightening to try to fix where the problem is, and what has caused the problem. So we have 14 fish that the Senator has on that list that have been overfished and, so far, he has identified two of that 14 that are overfished because of U.S. fishing efforts. Obviously, the 200-mile bill is an effort to take a ribbon of sea around our country in order, under this legislation, to bring about some conservation. [Sec. 101] But if, in this particular case, we have two of the 14 that we have identified that are being overfished by American fishermen, we obviously can pass laws to correct that situation without disrupting the entire international community or risking the success of the Law of the Sea Conference.

Mr. MAGNUSON. The purpose of the management part of the bill, title II, is to correct the situation, either with American overfishing or foreign overfishing, so that the stocks will be taken care of and conserved. [Secs. 201; 301; 303] I cannot argue with the Senator from Alaska. According to the best information that we have the overfished stocks are as follows: Yellowfin sole they say is overfished due to foreign fishing; Alaska pollock is foreign; Pacific Ocean perch—foreign fishing—I know that personally. As to Atlantic halibut, everybody knows about that.

Mr. GRAVEL. That has been overfished by whom?

Mr. MAGNUSON. By the foreign fishermen. And the Pacific halibut has been overfished by the United States.

Mr. GRAVEL. The Pacific halibut is foreign? I have it in reverse.

The Pacific halibut has been overfished by the United States and the Atlantic halibut has been overfished by foreign.

Mr. MAGNUSON. That is right.

The Bering Sea herring have been overfished by foreigners, and the Bering Sea shrimp has been overfished by foreigners. The haddock have been overfished by foreign fishermen.

Mr. GRAVEL. Is there no U.S. fishing of haddock? Have they contributed also to the overfishing?

Mr. MAGNUSON. No, not at all. That is not the information we get. They fish the stock, but did not contribute to overfishing.

Decline of the yellowtail flounder is due both to U.S. and foreign fishing, which ought to be corrected by the management process. [Secs. 2; 102; 201; 301; 303]

Mr. GRAVEL. Very good.

Mr. MAGNUSON. The California sardine is particularly a U.S. problem, as is Pacific mackerel.

Mr. GRAVEL. I did not hear the Senator. Was the Pacific mackerel caused by U.S. overfishing or foreign?

Mr. MAGNUSON. That is a U.S. problem.

The Atlantic sea scallop was a Canadian problem and the Atlantic bluefin tuna is United States.

I do not quite agree with that. I think that is a combination of everybody.

Mr. GRAVEL. I would be willing to agree with that.

Mr. MAGNUSON. This is the best information we get. The Senator from Washington is not a scientific expert on this matter.

Mr. GRAVEL. Nor is the Senator from Alaska.

Mr. MAGNUSON. But by creating management rules, we hope to preserve our stocks no matter who is fishing them. [Secs. 2; 102; 201; 301; 303] But much of it, the substantial part of it is foreign.

Now, to fully utilize the resources we should not stop the foreign people from coming in. I suppose utilize means—I have seen ships, and the Senator from Alaska has seen the ships—I wish we had room in this Chamber, as I said yesterday, to show them. Some of them look like ocean liners out there taking on the Russian ships and Japanese ships.

But what we are trying to do is to conserve all stocks. We will have rules and regulations on U.S. fishing just the same as we have on foreign fishing.

Mr. GRAVEL. Well, I think there are two facets, as the Senator stated—

Mr. MAGNUSON. Anyway, I hope the Senator's inquiry of yesterday is cleared up. I hope this clears it up. This is the best information we have. I challenge the last on the bluefin tuna. I am not sure it is correct, but that is only part of it. Much commercial tuna is overfished in the Atlantic. There is very little.

Mr. GRAVEL. Let me just state that I agree with the Senator from Washington—it probably is the best information he has. It is the best that I have. We both have the same sources. We may just have some errors in typing or interpolation. But I would add two more to this list. The information I have—menhaden is not on this list. That is up on the fully utilized. I do not know, the information that I get is that menhaden should be in the overfished category, and I think the Senator from Washington agrees with me, so that would make it 15 stocks overfished.

I would add another, barracuda. There is a moratorium on fishing barracuda. They are almost extinct, so I would say we have 16 fish being overfished.

Let me add I also agree with the Senator from Washington with respect to the management section [Secs. 2; 102; 201; 301; 303] that something should be done. There is no question something should be done about it, and I would support the management section, with the caveat that my amendment, which is at the desk and will be taken up in due course is adopted.

I hope, however, we can agree between us, the proponents and opponents of this legislation, that the heart of the matter is the stocks being overfished, and that the blame for the problem—and this is a little interesting, I have done a little arithmetic, and—I wonder if I could have the attention of the Senator from Washington, because if he disagrees with my conclusions it would be important to note this. In adding up the various stocks, and I have added on two more, barracuda and menhaden, as being overfished, making 16—when you add up those as being overfished, you see that 6 of these stocks are overfished because of foreign fishing efforts; 6 of these stocks are overfished because of U.S. fishing efforts; and 4 of these stocks are overfished because of U.S. and foreign fishing efforts. That totals 16 stocks, and I would fix the blame for the problem in this way.

Would there be any dispute by either the senior Senator from Washington or the senior Senator from Alaska as to the interpretation of the way I have outlined it?

(At this point Mr. Culver assumed the Chair.)

Mr. STEVENS. We might differ Mr. President, with my colleague from Alaska on some minor details. I do not think we have any major argument. We relied on the people who appeared before our committee, and the research that was done by the National Marine Fisheries Service, to give us this partial list. I would emphasize that this is a partial list of species of economic importance to the United States.

I ask unanimous consent, Mr. President, that the table be printed in the RECORD so that we will know what we are talking about.

There being no objection, the table was ordered to be printed in the Record, as follows:

A PARTIAL LIST OF SPECIES OF ECONOMIC IMPORTANCE TO U.S. FISHERIES SHOWING
THEIR PRESENT STATUS

POTENTIAL FOR INCREASED CATCH

Pacific rock sole.
Alaska herring.
Northeast Pacific shrimp.
Sea trouts.
King mackerel.
Mulletts.
California anchovy.
Blue crab.
Rock crab.
Jonah crab.
Surf clam.
Ocean quahog.
Gulf of Mexico clupeid.
Oysters.
Hard clam.
Calico scallop.
Pacific salmon.
Skipjack.

FULLY UTILIZED

Atlantic mackerel.
Red hake.
Silver hake.
Atlantic herring.
Atlantic squid.
Bering Sea cod.
King crab.
Tanner crab.
Pacific hake.
Atlantic cod.
Atlantic ocean perch.
Bluefish.
Menhadens.
American lobster.
Gulf shrimp.
Eastern Tropical Pacific Yellowfin tuna.

OVERFISHED

Yellowfin sole.
Alaska pollock.
Pacific ocean perch.
Pacific halibut.
Atlantic halibut.
Bering Sea herring.
Bering Sea shrimp.
Haddock.
Yellowtail flounder.
California sardine.

Pacific mackerel.

Atlantic sea scallop.

Northwest Atlantic shrimp.

Atlantic bluefin tuna.

Total number of species : 48.

Species with potential for increase : 18.

Fully utilized species : 16.

Overfished species : 14.

Percentage of total number of species fully utilized or overfished : 62 percent.

Mr. STEVENS. We do not try to draw a distinction between United States and foreign efforts in regard to the conservation goals. [Secs. 2; 102; 201; 301; 303] We seek a conservation goal which includes within the protection of this bill not only those species which are shown on this partial list, but all of the different species of the living resources of the sea which we consider to be of primary interest to the United States. As the chairman pointed out, the line is arbitrary.

We could have gone further or we could have made it a narrower zone but, as a matter of fact, we chose 200 miles because there is a consensus in the Law of the Sea Conference for an economic zone of 200 miles. [Sec. 101] We sought a vehicle to put into effect, on an interim basis, some mechanism for the protection of the living resources of the seas for future generations. [Sec. 2] That mechanism is the regional council management mechanism that is in this bill. [Secs. 2(b)(5); 2(c)(3); 302]

The Senator might argue as to whether menhaden is overfished or fully utilized or whether or not there is any potential for increased catch. The opinion of the experts may vary with regard to a particular species. We know, for the fisheries where we already have good interstate cooperation, such as halibut, or where we have good State programs such as in our own king crab fishery in Alaska, that there have been studies made, and that those studies show the present level of utilization. There have been plans made for conservation practices to be followed. The difficulty is that there has now arisen a serious question as to who has the right to enforce conservation principles beyond the 3-mile limit or to set up a mechanism so that they will be self-enforcing, which is really our goal if you examine this bill carefully. [Secs. 2; 101; 102; 301; 302; 303; 304; 305]

In addition, there is no mechanism at all for enforcing conservation goals upon foreign fishermen who have practiced the so-called pulse fishing off our shores for so many years.

Pulse fishing occurs when a fishing fleet fishes so hard on a particular species that it continues to fish until there is no return, and then moves on to another species.

We think we have the capability to increase the U.S. effort in the bottom fish area. We think we have the capability for increasing the catch of those species listed in the first category of that partial list. The difficulty, as explained to us in the hearings we held throughout the country—and I call the Senator's particular attention to the hearings I held in Alaska—is that every time the domestic fishermen try to enter an area that has in fact been occupied by foreign fishing fleets they have gotten chased out.

We have for example the incident in which the prize of the Alaska fleet, the *Viking King* and the *Viking Queen* went out to those fishing grounds for the first time. A foreign trawler grabbed their gear

and stripped out their winches. They literally had to return to the dry dock for repairs.

Under those circumstances we have no alternative but to set up a constitutionally sound mechanism to manage the living resources of the sea off our coasts. [Secs. 2; 102; 301; 302; 303; 304; 305] I think it would be futile for my colleague and me to argue whether Atlantic squid is or is not overfished. We are not capable of making that determination. At least I am not capable of making that decision. I want to set up a mechanism by which the people of the region affected can select those whom they think are capable of managing their fisheries. Those managers will comprise the regional council which will hire the experts, utilize the resources of the Federal Government and the affected State governments, and determine what the optimum yield of a particular species should be.

I want to emphasize, as far as I am concerned we are not talking about an economic matter. We are talking about a limit on the taking of those species when it is necessary from a biological point of view for their protection. We are talking only about conservation and the protection of the species involved. [Secs. 2; 101; 102; 301; 302; 303; 304; 305]

So to a great extent I am afraid my colleague's queries and the individual species approach misses our point.

We are not talking about any particular species. We are talking about conservation concepts and goals that we think are necessary in order to prevent further species from being placed on that overfished list and, to enable the overfished species to recover and become fully utilizable from a commercial point of view. That is from the point of view of utilizing these resources for our own food supply and that of the world.

But if we do not do that, if we do not act soon, I am willing to predict that 2 years from now those fully utilized categories will be down in the overfished area and the potential for increased catch will be practically obliterated.

Mr. GRAVEL. Will the Senator yield on that point?

Mr. STEVENS. We are dealing with a matter of great urgency.

Mr. GRAVEL. Will the Senator yield on that point?

Mr. STEVENS. Yes.

Mr. GRAVEL. Why would that happen if in many of these areas we have existing treaty agreements?

Mr. STEVENS. Well, I am sorry—

Mr. GRAVEL. An agreement to fish at a certain level, if it is recognized at that level, why would that start to deteriorate unless there is an error in judgment as to what the maximum sustainable yield is?

Mr. STEVENS. My colleague heard my statement. I hope, about the mackerel situation, which is the most current problem we have. On the east coast, we had a mackerel quota with the Russians. It was, as I understand 100,000 tons. Our observers told us they thought the Soviets had exceeded their quotas, by an estimated 10 percent. We took that information to the international meeting. The Russians themselves admitted they had overfished by 100 percent.

How do we know what overfishing has occurred unless we have a mechanism for control based upon a quota system where we have an

accurate accounting, as we do have, incidentally, in our own fisheries where it is voluntarily imposed upon the fishermen by their own desire.

We also have the halibut situation on the Pacific coast where there is a good working agreement with one exception. We do not have any control over the foreign fishing fleets. We know now they are taking baby halibut as they come over the lip of the Outer Continental Shelf, but we have no enforcement mechanism to stop them.

It is like playing football when the guys on the other side are running around the track. If they are not on the same field we are on, we have no system for control.

Mr. GRAVEL. I hope we will be fair and not just say they do not cooperate. Obviously, by the Senator's own statement, the Russians made this statement.

I happen to know, and I think my colleague knows, this last November we arrived at an agreement with Japan where we would put aboard their vessels some new prototype gear that would permit them to stop taking halibut as an incidental catch.

Mr. STEVENS. Oh, no.

Mr. GRAVEL. That is pretty cooperative of a foreign government that says, "Fine, there is a problem. We recognize it, too. We may not have the technology, so let us go ahead and try to put on something new and solve problems."

That is the way we solve problems—not arbitrarily saying to get off of the seas.

So, we have the agreement made last November, and they are putting that gear on board their vessels and that is to try to avoid taking of incidental halibut.

Mr. STEVENS. I understand we have——

Mr. GRAVEL. It is good will; is it not?

Mr. STEVENS. I understand we have an experiment to see if the incidental catch can be limited. But let me say in regard to incidental catch that incidental it is measured against the species being caught, which in this instance is pollock.

Last year they took 1.3 million metric tons of pollock. The incidental catch was on the order of 500,000 tons but it is not incidental to the halibut because our fishing fleet caught less halibut intentionally under their own quotas than the foreign fishing fleets caught incidentally to their fisheries for pollock.

Mr. GRAVEL. That is obviously why they then agreed to try to correct the situation.

Mr. STEVENS. The margin of error still exceeds what we are allowing our people to catch.

Mr. GRAVEL. That is obviously why they agreed to solve the problem. I do not think anything is gained by beating the problem to death.

We are talking about solutions. If we continue to say, "Here is the problem" and then repeat this, as if we are all idiots—I admit the problem is there. Let us do something about it.

Mr. STEVENS. All right.

Mr. GRAVEL. What I am saying is that they recognized the problem last November without the 200-mile bill, without the Law of the Sea Conference. The Japanese agreed to take some new equipment on and try to solve the problem with technology.

Now maybe the Senator has some magic wand we can wave, but I think this is a good faith effort.

Mr. STEVENS. I would do to them the same thing we do to our fishermen. We do not allow them to fish in that area when the fish are coming over the lip of the Shelf.

Mr. GRAVEL. They can do that.

Mr. STEVENS. Just a minute please, let me answer.

They have agreed to some kind of gear limitation, but not abstention which we have imposed upon our people. We prohibit our people from going out with gear which could be used for bottom trolling.

Mr. GRAVEL. Can we not do that?

Mr. STEVENS. If they come into our zone they are not subject to our management control and know that they are not going to be arrested if they use bottom gear. They are going to come in, all year long and fish for juvenile halibut as they swim over the lip of the Continental Shelf. The great problem in management is enforcement and mutual cooperation. Our fishermen have quotas set when they go out. They come back with a quota. It is an economic thing.

We do not set quotas on our people. Our people set quotas on themselves to protect the stocks.

I think we have led the world in this concept. The difficulty is that we do not have any policemen in that 200-mile zone. There are none.

The American concepts of the 3-mile territorial sea is to exclude anyone from intruding on that zone.

We are trying to remedy a difficulty in the American system in this bill, by setting up the framework for management of the living resources of the seas, primarily by the people involved in that area. [Secs. 3; 301; 302; 303; 304; 305] They will set goals which will let the economics of the fishing industry be determined in the normal supply and demand.

Mr. GRAVEL. I have already stated I agree that we have got to do something from a management point of view. But I think it should be understood, as the Senator agreed with me except for probably a minor technicality. I repeat his arithmetic again. Of the stocks overfished, six are overfished because of American effort, six because of foreign effort, and four because of United States and foreign effort.

So I think it is a little difficult for us to justify holding them out.

I think we have got a problem the foreigners have helped create and we have helped create. That is why—and the committee has done it properly—that is why the committee saw fit to do something in the management area. [Secs. 2; 301; 302; 303; 304; 305]

I am with the Senator on that. I have a slight amendment that I will offer with respect to protecting Alaska's primary interest. But I am with the Senator. I agree that something must be done from a management point of view. I just want to focus the parameters of this discussion, to indicate what the heart of the matter is. The heart of the matter is these 16 overfished stocks.

I hope the Senator is not trying to tell the Senate that the potential to be fully utilized is unprotected in those categories as they stand. My colleague knows we have multi- and bilateral treaties which protect those species.

Mr. STEVENS. I disagree 100 percent with my colleague. We know the Chinese are building the biggest fishing fleet the world has ever seen. What bilateral agreement do we have with China on salmon? What bilateral agreement do we have with Poland on menhaden? We have bilateral agreements with other nations and all they do is guarantee the foreigners a quota before the U.S. fishermen get there.

Mr. GRAVEL. My colleague is speaking too fast. He knows we have a bilateral agreement with Korea and China.

Mr. STEVENS. Poland is not a party; Red China is not a party.

Mr. GRAVEL. Korea is a party to the same abstention agreement; 1972 is when it was passed and signed. So Korea is covered.

I will agree China is not covered. I will agree. Anybody can come in right now into the North Pacific fishery and fish our salmon. That is the reason why it is so important to get the law of the sea. That is obviously the reason why.

Mr. STEVENS. Let me remind the Senator why Korea is not east of the abstention line. The day that the first Korean fleet came across the abstention line to fish for our salmon—and the Senator joined me in this effort—we put an amendment on the foreign aid bill and cut off their foreign aid until they left. They left the next day and have not come back yet because they are still getting foreign aid. I do not know how long that will last.

Mr. GRAVEL. They signed an agreement.

Mr. STEVENS. They have not signed a treaty on the abstention line.

Mr. GRAVEL. They signed it in October of 1972. The Koreans have signed the agreement, taking the same abstention line as the Japanese have taken.

Mr. STEVENS. I do not recall an amendment to the North Pacific fisheries treaty being submitted to the Congress. There may be an executive agreement but that is not the same under international law as far as this is concerned.

Mr. GRAVEL. It is not an executive agreement. We will get a copy of it for the record, so that the record will be clear.

Back to the other point: There is no question that fish can be threatened if everything goes to hell in a hand basket, which, of course, might well happen under this legislation. If we go ahead and take 200 miles unilaterally [Sec. 101], it will create anarchy on the seas. It will be "Katy, bar the door. Everybody grab what you can and do what you want." We do not have enough destroyers, we do not have a defense budget big enough to put a destroyer beside every fishing vessel in the Pacific or Atlantic to protect the interest that the Senator is trying to define.

Let me repeat the statement I made yesterday. All this legislation then becomes is a cosmetic political effort, a political act to pacify the fishing interests of the State when in fact they get nothing.

I would hope we could continue the dialog I want to pursue here, which I think is very important. If we agree that the reason for the legislation that the committee and the managers of this bill have come forward with, which they say we have to act on now and not wait until March 15 when the Law of the Sea Conference will convene again—if the reason for the panic is because of these 14—and I have added 2

more, barracuda and menhaden—16 species of fish that are overfished—if that is the case the Senator is making, I agree with him that we have to do something about that.

Does the Senator agree with me?

Mr. STEVENS. Is my colleague asking me a question? Do I agree with him?

Mr. GRAVEL. Does the Senator agree with me that the problem or the reason why the committee has come forward to act in panic on this issue is because of these stocks of fish being overfished? The shrill statements are made, "Our fish are being raped. We have to do something now." What I am trying to do is get an agreement with the Senator that these are the rapees? Are these the rapees?

Mr. STEVENS. When I first started practicing law I heard a story with regard to that. That is the reason I am smiling. I do not care who is the rapee or the rapor.

Mr. GRAVEL. I care who is the rapor. I just made the case that the rapor is both the United States and the foreign fishermen, not just the foreigners. We know who the rapor is. Are these the rapees?

Mr. STEVENS. I do not think we are in a rape case. I think we are dealing with a concept of conservation, which has been endorsed by the National Fisheries Institute, which is the effective spokesman for the American fishing industry. In the past they have opposed this bill, but they now say, "Give us the mechanism for setting up a control over the fisheries off our coast." [Secs. 101; 102]

The spokesmen for the American fishing industry say they are willing to submit to some kind of a management scheme, provided we use a regional concept taking into account local differences. [Secs. 301; 302] In order to establish that, to make it workable, it must apply to the foreigners, as well [Sec. 201], I am not coming before the Senate and saying we are here solely because of the rape of our commercial fisheries, which I incidentally, happen to believe. I think the foreign fleets are vacuum cleaning the bottom of the sea off our shores and we are asleep. I asked someone at one hearing what would happen if those Russian vessels were drilling for the oil off Alaska? Just how fast would this Congress have acted to protect that oil?

But they can come and take the fish and they can overfish, as they have, year after year after year, and only when we have gotten to the point where we have some statistics about overfishing do we apparently get some attention.

What we are trying to do is to prevent the growth of overfishing.

The senator can add three more to that. Someone told me there should be several more Alaskan species that should be on there. That is not the point. The point is that the list will grow no matter how large it is now unless there is a management scheme. The domestic fishermen want that scheme. They do not want us setting economic goals for them or allocating boats for them, but they want us to give them a lawful, constitutional mechanism for limiting the catch of commercial species off our shores and they want that mechanism to apply to foreign fishermen equally as it does to domestic fishermen. [Secs. 2; 102; 201; 301; 302; 303; 304; 308]

Mr. GRAVEL. If that is all they want, and I want to understand it very clearly because it is very important in this regard, if all we want is to protect the overfishing, the rape of these species—

Mr. STEVENS. No, that is not all we want. Maybe I am not very articulate. I do not care how many species are on the list that is overfished. They want a mechanism for conservation of all the species.

Mr. GRAVEL. Let us say that. What the fishing community wants is to be able to guarantee that they can conserve the stocks that are off our shores. Is that what they are after? It is a conservation method the Senator wants which will give this protection. Is that what the Senator wants?

Mr. STEVENS. Again, what we seek, in this bill, is a conservation goal, not an economic goal. [Sec. 301 (a) (5)]

Mr. GRAVEL. If I were to just presto give the Senator a conservation method of doing this, would the Senator then still want the 200 miles? [Sec. 101]

Mr. STEVENS. My colleague will not mind if I just smile a little bit and say I would like to see it first. If he has it, bring it up. We do not say we have invented the wheel with this bill, but we do say that we have a bill now that has the support of the sports fishermen, the commercial fishermen, the conservation organizations, and anyone who has been involved in this thing other than those negotiating for the State Department. The list does include, however, some of those who used to negotiate for the State Department and who now support the concept that is in this bill, knowing that interim legislation is needed to protect our stocks until there is an international accord setting up a acceptable throughout the world. [Sec. 401] We are saying it is time for us to stand up and protect our resources so they will not be further depleted. If that is what the Senator is asking, I say yes.

Mr. GRAVEL. First off, nobody questions that we all want to protect our resources. Nobody questions there are a lot of people for the 200-mile bill. Nobody questions that the only thing a lot of people understand about the 200-mile bill is just the words "200 miles." They do not know what the impact will be. But how about when we develop for people the fact that if we move unilaterally this will cause other nations to move unilaterally and that we will have American fishermen who will be harmed?

I see the Senator from Florida in the Chamber. He represents a State which has been sorely hurt as a result of this because of what we did to the Maine lobster on a unilateral basis, and what the Bahaman Government has now done to the lobster fishermen from the State of Florida.

So it does not make much sense. You can tell me some are for it; but I am not for a proposal that robs from one part of the country to try to give to the other part of the country.

I see also in the Chamber the Senator from California (Mr. Tunney), who has economic interests in his State which will be harmed by this 200-mile taking. Many of those fishermen who leave his shores in California, and go to other States or nations to fish off their shores will be hurt by this legislation.

I am sure we can find support on various facets of this. But we want to keep in mind one thing; what is the national good in this regard?

The national good is that we want to get a law of the sea agreement, because in that agreement we will have that 200-mile limit. But unless we get it through that international sovereign fashion, what we are

going to get is sand sifting through our hands, and that I do not think we can tolerate.

Mr. TUNNEY. Mr. President, will the Senator yield?

Mr. GRAVEL. I am happy to yield to my colleague from California.

Mr. TUNNEY. Mr. President, I would like to take this opportunity to reaffirm my strong opposition to the Fisheries Management and Conservation Act (S. 961). I understand the purpose of S. 961 to be:

... to protect and conserve valuable and necessary fishery resources, ... which contribute to the Nation's food supply, economic strength, health, and recreation . . . [Sec. 2(a) (1)]

The sponsors of this legislation are concerned because they believe that the Nation's fisheries are "depressed industries—due to the absence of adequate fishing management and conservation practices and controls." [Sec. 2(a) (3)]

While this may be an accurate description of our Nation's coastal fishing industry, it totally misrepresents the situation of our largest and most efficient fishing industry—the U.S. tuna industry. During the previous year, the tuna industry accounted for the following: 68 percent of the total U.S. production of canned fish and shellfish; 73 percent of the total value of U.S. canned fish and shellfish production; 21.3 percent of the volume of domestic landings of all edible commercial fish and shellfish—industry fish excluded; 18.4 percent of the value of domestic landings of all edible commercial fish and shellfish; and 32.6 percent of all domestic landings of edible fin fish—shellfish excluded.

S. 961 embodies a grave threat to the continued economic viability of commercial tuna fishing by U.S. fishermen. The negative impact on the tuna industry offsets whatever benefits that S. 961 contains for coastal fisheries. I cannot support legislation that "robs Peter to pay Paul."

Mr. President, during Monday's debate Senator Magnuson referred to the abundance of misinformation which has pervaded our consideration of S. 961. I cannot agree with him more in regard to the way in which this bill would effect the tuna industry. Consider the following excerpts from the Record:

First, on December 19, 1975 it was stated that "this bill has nothing to do with tuna." [Secs. 2(b) (1) ; 103] Mr. President, this is not the case. Perhaps I should paraphrase the invitation which was recently extended by Senator Muskie to Senator Gravel: "If the proponents of S. 961 would come to California and persuade my tuna fishermen that that is not the case, then it would be much easier for me to join with them in their position."

Second, it was also stated on December 19, 1975 that "we do not fish off the shores of another country." This statement is also in error. In the Eastern Pacific, the U.S. tuna fleet fishes off the coast of 12 countries. In the Central Pacific, the U.S. tuna fleet has fished off the coasts of Australia, New Zealand, the Trust Territories, and many islands owned by France and the United Kingdom. In the Western Pacific, the U.S.-flag tuna vessels have fished off Indonesia, the Philippines, New Guinea, and islands of the Trust Territory.

In the Caribbean and the Atlantic, the U.S. tuna fleet fishes off the coasts and islands of over 20 countries.

Based upon statistics compiled by the international commission having the duty to make conservation recommendations for tuna caught in the Eastern Pacific, a 200-mile limit applied by 13 countries would eliminate 2,113,831 square miles from the regulatory area. This new zone of national control would be equal to an area the land size of the United States.

Third, I would like to correct another statement that appeared in the RECORD on December 19, 1975, which reads: "There is not a bit of tuna left in the Atlantic commercially, because we did not have conservation." In reality, approximately 300,000 tons of tuna was caught commercially in the Atlantic Ocean in 1975.

Mr. President, misinformation and erroneous conclusions are also rampant in the Commerce Committee report on S. 961. For example, the report states that:

Title I explicitly provides that highly migratory species of fish (e.g. tuna) are not within the exclusive management authority of the United States. Such species shall be managed solely pursuant to international fishery agreements established for such purpose. [Sec. 103]

The separation of high migratory species is unsound in theory and unrealistic in practice. The net effect of the S. 961 approach to providing new safeguards for coastal fisheries would be a de facto removal of protection for our distant water fishing industry. The bill purports to provide protection to the entire U.S. fishing industry. [Sec. 2] In fact, the bill divides U.S. fisheries into two groups. S. 961 sacrifices the U.S. citizens engaged in high seas fisheries in favor of purportedly protecting the U.S. citizens engaged in coastal fisheries.

My final and most important objection to S. 961 is the fundamental approach which it takes in addressing international fishery management and conservation problems. Mr. President, the ultimate solution lies in international accord; not in unilateral action by the United States. If S. 961 is enacted, what leverage will the Secretary of State have to negotiate access for U.S. fishermen into the waters off foreign coasts?

I ask my colleagues to consider a much broader question: Once the United States sanctifies unilateral action by the passage of S. 961, we may very well have set the foundation for future unilateral claims for zones of sovereignty, for zones of pollution, for zones of scientific research, for zones prohibiting military vessels or nuclear-powered vessels, or for claims of zones that justify any current political or economic whim of a government.

I implore my fellow Seantors to reject S. 961 and instead instruct the President to push for prompt and appropriate action by the participants in the Third International Law of the Sea Conference. At a time when the worldwide allocation of scarce resources and materials is of increasing global concern, unilateral action is a bankrupt foreign policy.

Our very distinguished chairman knows that I have long opposed this legislation. I can understand why he feels that it is important. There are fishery resources off his coast which he feels are important to protect by taking this kind of unilateral action.

I, however, feels that it would not be in the best interests of either my State or the country to have this legislation passed. I am deeply

concerned not only about my tuna industry, which I think would be adversely affected, but I am also concerned about the precedential impact of the United States, the greatest power in the world, unilaterally extending its boundaries into the sea. [Sec. 101]

I am particularly concerned about what is going to happen in the future, as the nations of the world begin to lay claim to the seabeds beyond which we now have treaties covering those natural resources that may be found in the oceans.

I just do not think that it is wise for the United States to take this action at this time. I also am concerned about the different implications of coastal States claiming territorial jurisdiction out into the sea in a way which might prevent the American Navy, American warships, from sailing freely in the oceans of the world. Inasmuch as we are a very strong naval power, inasmuch as we have great international commerce and shipping by water, I just cannot, in my own mind, justify the action being taken.

However, as I say, I have great respect for my distinguished chairman. I understand his reasoning on this matter, but on this one I have to disagree with him.

Mr. MAGNUSON. Mr. President, will the Senator yield for one question?

Mr. TUNNEY. I yield.

Mr. MAGNUSON. I have explained this over and over, as has the Senator from Alaska. This legislation has absolutely nothing to do with navigation. I went through this 18 years ago in Geneva, when they wanted to extend the limit to 12 miles. This bill has absolutely nothing to do with navigation. Saying that is like seeing a Halloween goblin. Do you think anyone will stop navigation going through the Straits of Gibraltar because we want to protect our fishery resources.

Mexico now is claiming a 200-mile-limit, and it seems to me that to negotiate with Mexico, which would involve a lot of my friends and yours in the tuna industry, we have to deal from the same deck. We cannot go into this game with us not having anything and them having the 200-mile limit.

I know that a lot of tuna fishermen in San Pedro are worried, and they are very vocal; but I know of a few thousand up in northern California and southern Oregon where the ocean perch, which they live on, are gone, absolutely gone.

As to the tuna thing, we catch tuna within the coastal zones of nations which already have 200 mile zones. There is a tuna agreement. So I hope that between now and tomorrow the Senator will change his mind on this issue, because I do not see any valid argument from the tuna people at all. May I have the attention of the Senator from California?

I think the argument that somebody is going to retaliate on navigation or air space because we protect our own fisheries is ridiculous. That would be like saying the Sultan of Morocco and the King of Spain are going to say nobody can go through the Straits of Gibraltar because the Americans want to fish their own fish off their own shores. How ridiculous can you get?

The military worries about this all the time. They opposed the 12-mile limit. As a matter of fact, at one time I thought at Geneva they were going to oppose the 3-mile limit. There is no indication whatsoever that there would be retaliation in that way. Navigation is going to be taken up by the Law of the Sea Conference, navigation and an economic resource zone. Someone said to the Senator from Alaska, why should we not do this for minerals? But the minerals are going to be there; the oil is going to be there; but the fish—look at that chart—are going down and down and down. Imports of fish are going up and up and up, and the foreign catch is going up.

I do not know what those who oppose this bill suggest we do. What does the Senator suggest we do?

Mr. TUNNEY. I would like very much——

Mr. MAGNUSON. Just sit here and let it happen?

Mr. TUNNEY. No, I——

Mr. MAGNUSON. Sit year after year after year, and wait for something? The Law of the Sea Conference is almost like Alice in Wonderland.

The Senator will remember that in our committee, I was the one who suggested, "Let us hold this up." We passed this bill already once in the Senate; but I suggested we hold it up and give them a chance in Caracas. Remember?

Mr. TUNNEY. Right.

Mr. MAGNUSON. We gave them a chance in Caracas, and all they did in Caracas was pass a resolution to meet in Geneva; and then in Geneva they passed a resolution, after months, to meet in New York. The next thing they are talking about is going to Vienna. That is a great seaport, you know.

Mr. TUNNEY. I share my chairman's frustration.

Mr. MAGNUSON. I just do not understand. If anyone had a better suggestion as to what we should do, other than sit here and watch our fish stocks go down and down and down—I would like to know. Imports of foreign fish have gone up and up and up. Our balance of payments has been adverse for several years, and we are the world's largest consumer of fish products.

I want to build up these stocks, and to encourage our people to fish, California people and others. I just do not know what other answer there is. Is the answer to sit here and wait for the State Department to make an agreement?

This has gone on for seven conferences that I know of. I do not know where they picked these people to go up there and head our delegation. I know little about the new man who is going up there now, except that he has a very successful business background. We are dealing with people, in this Law of the Sea Conference, with cabinet ministers who can make a decision right at the table, for all these fishery matters.

We have this fellow, I do not know what his background is, he is probably one of the nicest fellows in the world, but his only experience with fish, I think, has been eating some pickled herring in the board room of IBM. And we have been frustrated all these years.

Mr. GRAVEL. Mr. President, if the Senator will permit me to make one correction, he did win the Bermuda race.

Mr. MAGNUSON. What?

But he will say "We can wait, sure, we can wait." The administration says, "We are for the Law of the Sea Conference."

The President of the United States in questions asked him in Seattle, up in Maine, in New York, said: "Yes, we are all for the 200-mile limit, but wait."

Fish do not wait. The stocks are dying out.

That is the argument of the Senator from Alaska. He wishes us to wait, wait, wait.

Mr. GRAVEL. The Senator from Alaska does not wish the United States to wait.

Mr. MAGNUSON. I do not know how long we can wait. This is our problem. I wish to know if anyone has a better suggestion.

Wait is all the argument of the Senator from Alaska is; is it not?

Mr. GRAVEL. No.

Mr. MAGNUSON. What is the argument? Is it that we should not have a 200-mile limit?

Mr. STEVENS. Mr. President, will the Senator from Alaska yield a moment?

Mr. MAGNUSON. I had the floor. Who has the floor now?

Mr. STEVENS. Will the Senator yield to me a moment while the Senator from California is here? I wish to do this. I was waiting for him to be here.

Mr. MAGNUSON. I yield to the Senator from California.

Mr. STEVENS. Will the Senator yield to me?

Mr. MAGNUSON. We have talked about this many times. I have not been able to be convinced enough, but I am getting close.

I yield to the Senator from Alaska.

Mr. STEVENS. I understand the Senator from West Virginia wishes the floor for a moment.

Mr. MAGNUSON. Excuse me.

The PRESIDING OFFICER. The Senator from West Virginia.

The Senate continued with the consideration of the bill (S. 961) to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

Mr. STEVENS. Mr. President, will the Senator yield to me?

Mr. GRAVEL. I am happy to yield but I wish to correct one statement.

Mr. Learson, the new Ambassador heading up our efforts in the Law of the Sea Conference, has a slight bit more experience than just eating pickled herring. He has not only been the chief executive officer of IBM, which of course has acquainted him with the international area, but also he has had an avocation which was almost to the point of a profession.

Certainly a person does not rise to these heights without treating it as a profession. Mr. Learson has, I believe, once, if not twice—and I know once, possibly twice—won the very famous Bermuda yacht races.

First, it takes a person with some knowledge of the sea to be able to captain a vessel to do that to the great honor of this country with respect to Great Britain—in competition with Great Britain.

Second, he comes from a very long line of mariners in his family from the Eastern part of the United States.

So I think that it serves no purpose here to belittle the background of the person who will represent us in the United Nations.

Mr. MAGNUSON. Mr. President, if the Senator will yield, I did not belittle his background. I said he is a fine man. I do not think he knows a great deal about the fisheries problem. I do not know. Maybe he does, I doubt it.

We have scores of experts around the United States who should be heading that delegation.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. GRAVEL. I am happy to yield. In fact I shall yield the floor. I do not wish to monopolize it.

Mr. STEVENS. I wish to have printed in the Record at this point a letter I received from the Sport Fishing Association of California.

I mentioned it to the Senator from California because I wished to make certain he understood that his constituents corresponded with me in this regard.

It points out the fear of the Sports Fishing Association of California that the fleets that are in Mexican waters now have nowhere to go but to come north into the areas off our shores unless we, too, have a 200-mile zone.

Mr. President, I ask unanimous consent that this letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

SPORTFISHING ASSOCIATION OF CALIFORNIA,
Long Beach, Calif., December 16, 1975.

Senator TED STEVENS,
U.S. Senate, Washington, D.C.

DEAR SENATOR STEVENS: In our letter to you dated October 29, 1975, our Association entreated you most sincerely to vote in favor of S-961 (extended jurisdiction of 200 miles) which is in committee and will be heard in the Senate imminently.

You will recall that the letter states the Sportfishing Association of California (SAC) represents the 400 commercial passenger fishing boats in California. Mention was made of intimidation by Russia trawlers and the depletion and near-collapse of most of our fisheries.

Since October 29 you are doubtless aware that the Mexican Congress has adopted the 200-mile extended jurisdiction.

The Mexican port of Ensenada, just 70 miles below the border, is a beehive of activity now with 3 reduction plants capable of reducing 3,000 tons of anchovies daily and a new fleet of 70 purse-seiners capable of supplying much more than that.

The anchovy family is common to Southern California down to below Ensenada and flows back and forth between the areas with the heaviest stable concentration off Santa Monica, Long Beach and Los Angeles.

It's then quite obvious that without the protection of the 200-mile limit the Mexican fleet will be up here catching our anchovies to be reduced by them to poultry and cattle food.

Our letter of October 29 also brought many Senatorial replies as it did ask for your position on extended jurisdiction.

Most of the replies were positive and enthusiastic in their support of S-961.

There were some, however, that were negative and indicated that the law of the Sea Conventions would hopefully settle the maritime nations' conflicts of which fishing is only one.

SAC believes this philosophy is just not realistic.

What is for certain is that the Law of the Sea Conventions are sponsored by the United Nations, a body which our country subsidizes.

However, it's also obvious that the U.N. does not listen to the U.S.A. but does listen to Russia and her satellites on these important issues.

Russia and her fishing satellites are the leading predators in their greed to clean out the resources using any method and schedules convenient to them and to hell with the U.S.A. and the small coastal countries.

It is high time the Congress took action to protect the rights of the U.S., its citizens and resources as well as those of the helpless nations against the predator nations.

We urge the Senate to take that first giant step forward and upward by voting in favor of S-961.

Again, SAC asks that if you have not responded to our request of October 29 stating your position on S-961 that you do so now.

The 900,000 passengers who fish on our fleet annually also urge your positive vote on S-961.

Sincerely,

W. A. NORTT,
President.

Mr. GRAVEL. Mr. President, what type of fleet is that which is having to come north? Are those American fleets or foreign fleets?

Mr. STEVENS. Foreign fleets.

Mr. GRAVEL. Foreign fleets and American fleets, is that right?

Mr. STEVENS. This letter says:

The Mexican port of Ensenada, just 70 miles below the border, is a beehive of activity now with 3 reduction plants capable of reducing 3,000 tons of anchovies daily and a new fleet of 70 purse-seiners capable of supplying much more than that.

The anchovy family is common to Southern California down to below Ensenada and flows back and forth between the areas with the heaviest stable concentration off Santa Monica, Long Beach and Los Angeles.

It's then quite obvious that without the protection of the 200-mile limit the Mexican fleet will be up here catching our anchovies to be reduced by them to poultry and cattle food.

I think this is true.

Mr. President, if I have the floor, and then I shall be happy to yield. I asked the Senator from Ohio to be here so that we could call up my substitute for the amendment that is the committee amendment on page 71 regarding title IV, the effective date. [Sec. 104]

Yesterday I secured a unanimous—

Mr. GRAVEL. Mr. President, if the Senator will yield before doing that, I have the information that we disagreed on, and that is the only item I have to introduce.

The PRESIDING OFFICER. The Chair reminds the Senator that it takes unanimous consent to set aside the first committee amendment which is now prevailing.

Mr. STEVENS. Mr. President, with the concurrence of the floor manager of the bill, I move adoption of the first committee amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. Mr. President, reserving the right to object, will the Senator refresh by memory as to what that amendment was so that we will know what is being agreed to?

Mr. STEVENS. It is the amendment which states that the negotiation of any treaties that would have to be modified as a result of this bill would commence not later than January 1, 1977. [Sec. 202(c)]

Mr. GRAVEL. Yes, I believe that was part of the cleanup minor amendments that we had agreed to that would be treated as original text.

So that there is no misunderstanding, I shall just add to my unanimous-consent request that the passage of this amendment be treated as original text.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens) proposes an amendment:

On page 44, line 16, strike September 30, 1976, and insert January 1, 1977
[Sec. 202(c)]

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. GRAVEL. Mr. President, before the Senator from Alaska takes up the other matter, I wonder if he will indulge me for one brief minute to ask unanimous consent to have material printed in the Record.

Mr. STEVENS. I am happy to do that.

Mr. GRAVEL. Mr. President, I ask unanimous consent to print in the Record a sheet, which I now send to the desk. It is a sheet taken from a book entitled "Alaska and the Law of the Sea," subtitle, "International Fisheries Regime of the North Pacific," by Walter P. Parker. The page I am sending to the desk deals with an agreement—and I shall read it briefly for the edification of my colleague—that we signed.

In November of 1972, the United States and the Korean Government finally reached accord concerning the fisheries of the northeastern Pacific Oceans and the Bering Sea; they signed a 5-year agreement including the following conditions:

I have the conditions here, which shall be printed in the Record.

That is merely to correct a misunderstanding that we had earlier as to whether or not we had agreement with the Koreans. We do have one, and this is the reference in that case.

I wish to further correct the Record so that it will show that we have an agreement that was negotiated and agreed to on December 6, 1975, that denied the Polish the right to fish halibut and salmon in our waters.

So I send this paper to the desk and ask unanimous consent that it be printed in the Record.

There being no objection, the papers were ordered to be printed in the Record, as follows:

UNITED STATES-REPUBLIC OF KOREA FISHING AGREEMENT

When the Republic of Korea began exploratory fishing in the North Pacific and Bering Sea in 1966, it was expected that the nation would develop a ground-fish trawl fishery and a high sea salmon fishery. While Alaskans could accept the former, they were certainly not prepared to accept the latter.

The Alaskan congressional delegation actively pushed for an agreement which would prohibit Korean high seas salmon fishing efforts. In November of 1972, the United States and the Korean government finally reached accord concerning the fisheries of the Northeastern Pacific Ocean and the Bering Sea; they signed a five-year agreement including the following conditions:

"The United States agreed to provide technical advice on shellfish sanitation and salmon propagation to Korea. Three loading areas were established within the U.S. contiguous zone in the Bering Sea for Korean fishing boats to transfer their cargoes.

"Both nations agreed to exchange scientific and statistical data and to assist in development of joint participation ventures in commercial fisheries.

"Korea agreed to refrain from fishing for salmon and halibut in the Northeastern Pacific Ocean and Bering Sea east of 175° west longitude. (See Figure 16.)

"The two nations agreed to consult on and limit gear conflicts and to refrain from practices which would result in pollution of the seas."⁵³

In the first salmon fishing season following the signing of the above agreement, Korean vessels were accused of high seas fishing for salmon as far east as 160° west longitude. However, the U.S. Coast Guard was unable to catch the vessels in a chase; no firm evidence of such fishing was established.

Thus far, only a small part of the Korean fishing effort has been conducted in the North Pacific. In 1971, seventeen of the 351 boats in the fleet fished off Alaska. They were groundfish trawlers whose catch was estimated at 7,000 metric tons.⁵⁴

The bulk of the fleet will continue to concentrate on tuna, aiming most of its increasing efforts at the skipjack tuna populations of the midwestern Pacific. A survey of trawling and gill netting potential in the southwest Atlantic or the North Pacific is planned in 1974, according to the Korean government's five-year fishery survey program.⁵⁵

Mr. STEVENS. Mr. President, I am pleased to have my colleague's comments.

He said we have a bilateral treaty. We have no treaty with Korea, Poland, or China. We have agreements that have been negotiated. They may be terminated, as I understand it, on notice. They do not have the standing of treaties, and we do not have the protection for salmon that we have with Russia and Japan.

In any event, I understand there are agreements, but there are no treaties.

Mr. GRAVEL. The agreement with Poland is not a treaty. Is that what my colleague is saying? It is an agreement; it is not a treaty?

Mr. STEVENS. It is an agreement with Poland and with Korea. Neither of them are treaties. Neither were submitted to this body for ratification. The Inter-Pacific Fisheries Treaty was ratified. They are not parties to that agreement.

Mr. GRAVEL. Right. We have an agreement with them that they will not fish. I want that clearly understood.

Mr. STEVENS. We have agreements with the Japanese and with the Russians that they will not fish, but every year we are arresting more and more of their boats within our 12-mile zone. I do not know what argument that is. The problem is that there is no effective fisheries conservation regime in the whole area off our shores.

Mr. President, I wish to call up the amendment I have at the desk, now that the Senator from Ohio is in the Chamber. I ask that the amendment, upon which there was a unanimous-consent agreement yesterday for it to be a substitute for lines 3 and 4 on page 71, No. 1187, be called up at this time.

The PRESIDING OFFICER. First, the clerk will state the second committee amendment.

⁵³ U.S. Department of State, *Agreement Between the Government of the United States and the Government of the Republic of Korea Concerning Cooperation in Fisheries*, Washington, D.C., 24 November 1972.

⁵⁴ Dr. Harry L. Rietz, Alaska Region Director, National Maritime Fisheries. 18 March 1974; personal communication.

⁵⁵ *Ibid.*, p. 5.

The legislative clerk read as follows:

On page 71, beginning with line 3, insert:

TITLE IV—EFFECTIVE DATE

SEC. 401. This Act shall take effect on January 1, 1977. [Sec. 104]

The PRESIDING OFFICER. The clerk will now state the amendment proposed as a substitute.

The legislative clerk read as follows:

On page 71, strike lines 3 and 4.

On page 70, between lines 3 and 4, insert the following:

(d) EFFECTIVE DATE.—Except as provided in subparagraph (e) of this subsection, the effective date of this Act shall be the date of enactment. [Sec. 104]

(e) ENFORCEMENT DATE.—The provisions of this Act with respect to fishing within the fishery conservation zones and for anadromous species shall not be enforced until January 1, 1977. [Sec. 312]

Mr. STEVENS. Mr. President, to explain this amendment, we understand the goal to be to allow the Law of the Sea Conference to have this full year to complete its negotiations before we would impose a 200-mile zone, with the hope, still, that they will be able to achieve an agreement through the Law of the Sea Conference. [Sec. 401]

The Senator from Ohio, according to my information, is responsible for the committee amendment that is the basic pending amendment. It appears on page 71 and says that this act shall take effect on January 1, 1977. [Sec. 104] I have discussed this matter with him informally, and it is my hope that he will see fit to accept our philosophy in this matter. I tried to explain it yesterday, and I will try to explain it briefly again. [Secs. 2; 101]

The bill has two basic goals. One is to establish the zone; the other is to establish the management mechanisms within the zone. [Secs. 2; 102; 301; 302; 303; 304; 305]

The regional fisheries council would take time, necessarily, to be organized and to follow sound constitutional principles of due process before there would be any enforceable fishing conservation regimes that could be followed in these regions. [Secs. 302; 303; 304; 305] My amendment supports the position of the Senator from Ohio that the 200-mile zone would not be enforced against anybody until January 1, 1977; [Sec. 312] but, in the meantime, the Governors of the respective coastal States will identify the people they wish to serve on the councils, and they can submit the names to the President. [Sec. 302] According to the amendment we already have adopted, they must do that within 45 days. The President would then select those he wants to nominate within the next 45 days and submits the names to this body. I assume it will take us at least that amount of time to confirm the nominations of this number of people. A substantial number of people will be involved.

After that, they have to organize themselves within 60 days after the confirmation of their nominations. They have to hire a staff, they have to find quarters, they have to agree to their own internal procedures, and then they have to start to comply with procedural due process requirements in the promulgation of regulations. Once they do that, they will have to provide notice of hearings and promulgate their regulations, and then must submit them to the Secretary of Commerce. [Secs. 302; 303]

The Secretary of Commerce then must give notice of the promulgation of regulations by the Federal Government, and eventually he will promulgate the final regulations. [Secs. 304; 305] It is our feeling that it would take 9 months, probably more, before we would have enforceable domestic law—not only enforceable against foreign fishing fleets but also enforceable in the constitutional domestic sense. [Secs. 304; 305]

What we seek is the same goal that the Senator from Ohio seeks, but I would like to put the management council mechanism [Sec. 302] in motion with the enactment of this measure, with the hope that the Law of the Sea Conference will reach an agreement and that the management councils will in fact be our domestic fisheries management entities with regard to living resources within the 20-mile zone. [Sec. 401]

That is the purpose of my amendment, and I will be happy to answer any questions. We think the Senator from Ohio has a very good position. It is consistent with all our goals—that is, the final attainment of an international agreement establishing the Law of the Sea on a new basis that recognizes the new concepts of conservation and environmental protection. [Sec. 401] We think—unfortunately, we have one disagreement—that it will take longer than many other people think it will take.

In any event, for myself—and I believe I speak for the Senator from Washington, also—

Mr. MAGNUSON. Yes. I cosponsored it.

Mr. STEVENS. We would like to have that agreement, so that we could start the management mechanisms in motion, and we will accept the Senator from Ohio's concept of the January 1 date.

Mr. TAFT. Mr. President, when this matter came up before the Committee on Armed Services, on which I serve, there were arguments both as to what the effect might be of passing the bill with the immediate effective date and as to the probable results on the Law of the Sea Conference.

It was said, on the one hand, that it might speed up the Law of the Sea Conference in taking up the entire question. On the other hand, it was said that it might so discourage other nations at the Law of the Sea Conference that it would harm and deter successful results in fishing areas and other areas in the Law of the Sea Conference in March and at subsequent times in the coming years.

To avoid that question and to give a period of time in which the Law of the Sea Conference would have an opportunity to act, if it wished to do so, I decided—and I offered an amendment—to make the effective date January 1, 1977. [Sec. 104] That amendment was agreed to by all the members of the committee who were present at the time, and I believe it was agreed to by all members, and the amendment was adopted.

The proposal made by the Senator from Alaska and the Senator from Washington is entirely appropriate. I think there are a couple of questions as to the language that should be cleared up, by way of legislative history. The first of these is that there is no intent, I take it, in the language that is proposed in the amendment, No. 1187, to make it retroactive in any way as to violations before January 1, 1977.

[Secs. 104; 312] The language just says that it shall not be enforced before January 1, 1977. **[Sec. 312]** The language, just saying that it shall not be enforced until that time, conceivably might be ambiguous in that respect. I would like to clear that up at this time. **[Sec. 312]**

Mr. STEVENS. We would be happy to change that to read that it would not be enforceable before January 1, 1977. **[Sec. 312]** That is the intent—that there be no enforcement against any person before January 1, 1977 **[Sec. 312]**, of the concepts that come out of this bill. On the other hand, it is our intent that all the authority of the councils to commence the promulgation of regulations would be in effect at that date.

Mr. TAFT. I had a little question as to whether the same language as to the enforcement date **[Sec. 312]** might go somewhat further as to some of those activities. I wonder whether language such as the following might clear up the problem. Rather than saying “enforced until January 1, 1977,” perhaps the amendment can say “shall not be effective for enforcement as to violations before January 1, 1977.” **[Secs. 104; 312]**

Mr. STEVENS. That is entirely agreeable.

Mr. MAGNUSON. I think this will make the legislative history.

Mr. STEVENS. If the Senator has that written down, we will be glad to modify the amendment.

Mr. TAFT. I have it written.

Mr. STEVENS. Mr. President, I send to the desk the modification suggested by the Senator from Ohio and ask that my amendment be so modified.

The PRESIDING OFFICER. The amendment is so modified.

The modified amendment is as follows:

On page 71, strike lines 3 and 4.

On page 70, between lines 3 and 4, insert the following:

(d) EFFECTIVE DATE.—Except as provided in subparagraph (e) of this subsection, the effective date of this Act shall be the date of enactment, but the provisions of this Act with respect to fishing within the fishery conservation zone and for anadromous species shall not be effective for enforcement as to violations before January 1, 1977. **[Secs. 104; 312]**

Mr. TAFT. Mr. President, I think that the amendment, as modified, is wholly satisfactory.

I just want to say a few more words covering a subject which I brought up in the supplemental views that I filed in the Committee on Armed Services report, on page 9, which really motivated, in part, my taking a look at the effective date question. **[Sec. 104]**

In certain conferences with public officials and other prominent citizens of other nations, but on an informal basis, in discussing the entire matter, I found that there was a very common lack of understanding of the purpose of this bill. I found that the general understanding internationally was that the bill would apply to all types of control of undersea resources, of shipping, of everything else. I felt that that was something that should have been cleared up, and should have been cleared up long since, by the American delegation and by the State Department.

I feel now that one reason for delaying the effective date **[Sec. 104]** and to delay it until after the Law of the Sea Conference has a chance to act **[Sec. 401]** is to make that clear to the international community.

There should be a very clear understanding on the part of the international community that this bill applies only to the question of reasonable regulation of fishing and absolutely nothing else. [Secs. 2; 101; 102] I believe it is incumbent upon our State Department to make that known throughout the world, if this bill is passed, and I fully expect that it will be passed. To do otherwise, it seems to me, would be to work against our own interests with respect to having a positive result of the Law of the Sea Conference. [Sec. 401]

If, indeed, the purpose were to go beyond a mere fishing area, I am sure that many Senators, including myself, would have serious doubts about the legislation. But with the limitations involved here, I believe we can get a common understanding that there are not going to be any of the reactions and repercussions that so many fear. As has been pointed out by the distinguished Senator from Alaska, it is in the interest of all the fishing nations to agree to a regulation of this kind. I want to make that clear at this point. It is related, of course, to the subject of the amendment which I propose.

Mr. STEVENS. I thank the Senator.

Mr. TAFT. I yield the floor.

Mr. GRAVEL. Mr. President, I ask unanimous consent to have printed in the Record two fact sheets dealing with international law and the effect of this legislation on our treaties.

There being no objection, the fact sheets were ordered to be printed in the Record, as follows:

S. 961 VIOLATES INTERNATIONAL LAW

CLAIM

S. 961 is consistent with international law.

FACT

S. 961 makes exclusive, unilateral claims to ocean space. International law, however, forbids the unilateral or exclusive claim to ocean space beyond a 12 mile contiguous zone. Louis Sohn, Professor of International Law at Harvard University and a leading authority on ocean fisheries matters, states: "The practice of states since 1960 shows there is general agreement that a state can extend its fishing limits to 12 miles . . . On the other hand, there is no basis in customary international law for an extension of a fishing zone to 200 miles."

CLAIM

The "Truman Proclamation" on fisheries conservation is a precedent for unilateral action recognized in international law.

FACT

President Truman proclaimed a fisheries conservation right on the "high seas contiguous to" the coast of the United States, at a time when international law was neither codified nor generally agreed to on this matter. Furthermore, this action was not taken in the midst of U.N. negotiations on the matter. In any case, the claim contained limitations of critical importance. It was limited to areas in which only U.S. nationals fished and it applied only to U.S. nationals. Any conservation regulations for foreign fishing had to be undertaken by negotiations.

CLAIM

S. 961 is consistent with a developing trend in international practice to more extensive claims to fisheries jurisdiction on the basis of "preferential rights" of coastal states.

FACT

In the recent Icelandic Fisheries Case, involving a unilateral claim to a 50-mile fisheries zone, the International Court of Justice noted that existing international law did not grant to coastal states the right to extend their jurisdictions unilaterally or on an exclusive basis. Far from declaring such practice a growing trend, the Court stated: "The concept of preferential rights is not compatible with the exclusion of fishing activities of other states. . . . A coastal state is not free, unilaterally and according to its own uncontrolled discretion to determine the extent of those rights. The characterization of a coastal state's rights as preferential places a certain priority but cannot imply the extinction of the concurrent rights of other states."

CLAIM

S. 961 will help further negotiations at the Law of the Sea by bringing pressure to reach an early agreement.

FACT

U.S. unilateral action, as contemplated in S. 961, will bring unilateral retaliatory action by other nations. It is naive to assume that a unilateral and illegal assertion over ocean space will be met with a hastened willingness to cooperate at the U.N. negotiations.

Moreover, the Law of the Sea Conference is attempting to define not just the rights, but also the duties of a coastal state. If the U.S. leads the parade of nations claiming rights like the 200 mile zone without equally claiming defined responsibilities, it stands to reason that other nations will follow, giving less heed to responsibilities under the unilateral claim.

Commercial navigation, military transit, pollution control, fisheries conservation, full utilization and recognition of historical fishing rights, and deep sea mining all are serious issues that must be resolved. S. 961 will destroy these efforts, which are already well under way at the Law of the Sea Conference. In addition, our action will spur other nations to act in a like manner, each claiming a different right, over wider ocean areas, clearly antagonistic to each other. The clear consensus reached at the last Law of the Sea meeting in Geneva on fisheries, scientific research, pollution and ocean navigation would surely be shattered into a host of conflicting and incompatible national claims and assertions.

CLAIM

A unilateral 200-mile extension of our fisheries zone is consistent with U.S. action in 1966 which extended our fisheries jurisdiction to 12 miles.

FACT

The 200-mile extension cannot be justified on the basis of the 12-mile extension since the latter was in accord with international law. The 1958 and 1960 Geneva Conventions, while not universally adopted, did become generally accepted international law. Louis Sohn of Harvard Law School has said recently: "The 1960 Law of the Sea Conference showed there was a strong majority for a 12-mile fisheries zone extension, the disagreement being limited to the narrow issue of the manner of maintaining historical rights" and the abstention of new entrants to coastal fishing. "The practice of states since 1960 also shows that there is general agreement that a state can extend its fishing limits to 12 miles." The International Court of Justice in the Icelandic Fisheries Cases expressly stated that the concept that had "crystallized as customary law . . . arising out of the general consensus revealed at the Conference," is that coastal states may claim fisheries jurisdiction "up to 12 miles"—an extension that "appears now to be generally accepted."

Louis Henkin, Professor of International Law at Columbia University and an expert on Law of the Sea matters put it this way: "the principles of the Geneva Conservation Convention were generally acquiesced in when the treaty was made and have not been seriously challenged today."

As the President of the American Society of International Law, R. R. Baxter, has written: "There is ample basis for concluding that the extension of our exclusive fisheries zone to twelve miles in 1966 was in accordance with international law and the practice of states."

"Although many nations, like our own, have indicated that they would like to see a 200-mile economic zone become accepted by treaty as the international law of the future, this does not mean that they have accepted it as existing international law without any treaty. I believe that a considerable majority of the Foreign Offices of the world, and of international law scholars and commentators, would agree that unilateral assertion of a 200-mile fisheries zone would violate international law today. And in the event that the question should come before the International Court of Justice, I think that Court would be likely to rule that the proposed unilateral fisheries zone violates the international law of 1975."—William Bishop, Professor of International Law, Michigan University.

It is of course true that at the United Nations Law of the Sea Conference, "there has been much support for agreement on a 200 mile economic zone, but it is generally recognized that this is a proposal for new law which can be valid only on the basis of general agreement through treaty."—Philip Jessup, Former Justice, International Court of Justice.

"In my view, H.R. 200, if enacted, would not be consistent with the obligations of the United States under existing international law. It is established, and the International Court of Justice has recently reiterated (*in the Icelandic Fisheries Case*) that a coastal state cannot extend its exclusive fishing jurisdiction into the high seas at will, against all. In the *Icelandic* case the Court held that Iceland could not unilaterally assert even a 50 mile exclusive zone against the United Kingdom."—Louis Henkin, Columbia University, Professor of International Law.

"There is no question, in my mind, that such an extension would be invalid under international law and would violate the rights of other states. It would be in particular inconsistent with our various agreements on fisheries, especially the Northwest Atlantic Fisheries Convention. Such countries as the Soviet Union in the Atlantic and Japan in the Pacific could validly argue that their rights have been grossly violated by such action of the United States. Such legislation would also constitute a violation of the United States obligations under the Convention on Fishing and Conservation of the Living Resources of the High Seas, concluded in Geneva in 1958. This treaty provides various methods for safeguarding of a coastal nation's interests. The proposed legislation does not follow the detailed provisions of the Convention for dealing with the problem.

"In addition, the proposed legislation disregards the basic rule of international law, embodied in Article 2 of the Convention on the High Seas of 1958, which provides that in exercising its rights on the high seas each state must pay reasonable regard to the interests of other states in their exercise of the freedoms of the high seas, which includes the freedom of fishing. This was clearly stated by the International Court of Justice in the Fisheries Jurisdiction Case between the United Kingdom and Iceland. As the Court noted, any legislation on the subject must be reasonable and equitable and should take into account the traditional fishing rights of other states. The proposed legislation does not fulfill these conditions."—Louis Sohn, Harvard University, Professor of International Law.

"Very few states have extended their exclusive fisheries zones to 200 miles. What these few states have done does not reflect "international custom, as evidence of a general practice accepted as law," within the meaning of Article 39 of the Statute of the International Court of Justice, dealing with the sources of international law. The great majority of states have been much more restrained in their claims.—R. R. Baxter, Professor of Law, President of the American Society of International Law, Harvard University.

EFFECT OF S. 961 ON U.S. FISHERIES TREATIES

Section 103(b) of S. 961 calls upon the Secretary of State to initiate negotiations to amend or terminate . . . agreements inconsistent with "the purposes, policy, and provisions of this Act." As a practical matter, this means that all our significant international treaties designed to protect our fisheries will have to be terminated. In short, S. 961 asks us to trade functional multilateral agreements for questionable unilateral claims that would be almost impossible to enforce.

S. 961 would undermine the freedoms of the high seas—navigation, overflight, fishing, and the laying of cables and pipelines—granted by the 1958 Geneva Convention on the High Seas, which we signed along with 43 other nations. Louis Sohn of Harvard Law School has said of S. 961: "The proposed legislation dis-

regards the basic rule of international law, embodied in Article 2 of the Convention on the High Seas of 1958, which provides that in exercising its rights on the high seas each state must pay reasonable regard to the interests of other states in their exercise of the freedoms of the high seas, which include the freedom of fishing. This was clearly stated by the International Court of Justice in the Fisheries Jurisdiction Case between the United Kingdom and Iceland." Any interference with the ocean transport of energy or military navigation would have serious effects on the U.S. economy and national security.

Professor Sohn also notes that the 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas would be affected by S. 961. The legislation would violate our obligations under this Convention to follow its detailed provisions in dealing with fisheries conservation matters.

Below are quotes from respected authorities which show how our major fisheries treaties are inconsistent with S. 961, and therefore would have to be terminated if other signatories were not willing to amend them in accord with our unilateral actions.

1952 SALMON TREATY

"Certain provisions of S. 961, if implemented, make it impossible to comply with the Convention . . . would run counter to the letter or spirit of the Convention. For example, implementation of Section 101(b) of S. 961, calling for the exercise of exclusive fishery management, authority over anadromous fish spawned in the United States, would appear to be inconsistent with what is implicit in Article V, paragraph 2, and the Annex of the Convention—that Japan is permitted to salmon, even of American origin, if they are west of the line of meridian 175° West Longitude. Also the exclusivity of the fishery conservation zone to be established would not be consistent with the participation of Canada in the framing of the "necessary conservation measures" contemplated by the Convention."—R. R. Baxter, Professor of Law, President of the American Society of International Law, Harvard University.

BRAZIL—U.S. SHRIMP TREATY

"I can think of no logical basis upon which we could return to the bargaining table with the Brazilians. You will have removed from the hands of the American shrimp industry the only real level we have. We will, in effect, be going to the table to talk to the Brazilians not as negotiators but as purchasers. They will be saying to us 'We own the shrimp.' With S. 961 as law, how could the U.S. claim otherwise?"—Bill Utz, Executive Director, National Shrimp Congress.

U.S. TUNA TREATIES

"In our opinion [S. 961], will destroy the IATTC (Inter-American Tropical Tuna Commission) and ICCAT (International Commission for the Conservation of Atlantic Tuna) and will make the creation of new international fisheries organizations an impossible dream. This opinion is supported by factual information developed during the 25 year history of the IATTC."—August Felando, American Tunaboat Association.

ICNAF

"The proposed legislation would, in particular, violate the International Convention for the High Seas Fisheries in the North Atlantic, as the restrictions on foreign fishing and the unilateral conservation procedures provided for in the legislation do not conform to the provisions of the Convention."—Louis Sohn, Professor of International Law, Harvard University.

UNITED STATES FISHERIES TREATIES

Multilateral

International Convention for the Northwest Atlantic Fisheries, February 8, 1949.

International Convention for the Conservation of Atlantic Tunas, May 14, 1966.

Convention for the Establishment of an Inter-American Tropical Tuna Commission with Exchange of Notes, March 3, 1950, May 31, 1949.

International Convention for the High Seas Fisheries of the North Pacific Ocean, with Annex and Protocol, May 9, 1952.

Law of the sea

Convention on the Territorial Sea and the Contiguous Zone, April 29, 1958.

Convention on the High Seas, April 29, 1958.

Convention on Fishing and Conservation of the Living Resources of the High Seas, April 29, 1958.

Convention on the Continental Shelf, April 29, 1958.

*Bilateral***Brazil**

Agreement Concerning Shrimp, with Annexes, Agreed Minute and Exchanges of Notes, May 9, 1972.

Canada

Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, March 2, 1953.

Agreement on Reciprocal Fishing Privileges in Certain Areas Off the Coasts of the United States and Canada, June 15, 1973.

Agreement with Canada Concerning Reciprocal Fisheries Privileges, April 24, 1970.

Convention with Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and the Bering Sea, October 28, 1953.

Cuba

Convention for the Conservation of Shrimp, August 15, 1958.

Denmark

Agreement Relating to Conservation of Atlantic Salmon, July 6, 1972.

Japan

Agreement Concerning Certain Fisheries Off the Coast of the United States, December 24, 1974.

Agreement Concerning Salmon Fishing, December 24, 1974.

Agreement Concerning the King and Tanner Crab Fisheries in the Eastern Bering Sea, December 24, 1974.

Agreement with Japan on the King and Tanner Crab Fisheries of the Eastern Bering Sea, November 25, 1964.

Agreement with Japan on the Contiguous Fishery Zone, May 9, 1967.

Romania

Agreement Regarding Fisheries in the Western Region of the Middle Atlantic Ocean with Related Letter, December 4, 1973.

Agreement with Romania on Fisheries in the Western Region of the Middle Atlantic Ocean, December 4, 1973.

Korea

Agreement Concerning the Improvement and Standardization of Shellfish Sanitation Practices and Exchanges of Information on Sanitary Controls Applied to the Production and Handling of Fresh or Frozen Oysters, Clams and Mussels, with Related Notes, November 24, 1972.

Poland

Agreement Regarding Fisheries in the Western Region of the Middle Atlantic Ocean with Annexes and Agreed Minutes, June 2, 1973.

Agreement with Poland Regarding Fisheries in the Western Region of the Middle Atlantic Ocean, June 12, 1969.

U.S.S.R.

Convention Regarding Navigation, Fishing and Trading on the Pacific Ocean and Along the Northwest Coast of America, April 17, 1824.

Agreement on Certain Fisheries Problems in the Northeastern Part of the Pacific Ocean Off the Coast of the United States, February 21, 1973.

Agreement Relating to Fishing for King and Tanner Crab with Appendix, February 21, 1973.

Agreement Relating to the Consideration of Claims Resulting From Damage to Fishing Vessels or Gear and Measures to Prevent Fishing Conflicts, with Annex and Protocol, February 21, 1973.

Agreement with the U.S.S.R. on the Middle Atlantic Fishery, March 21, 1969.

Agreement with U.S.S.R. on Fisheries Operations in the Northeastern Pacific (Gear Conflict), December 14, 1964.

Agreement with the U.S.S.R. on the King and Tanner Crab Fisheries of the Eastern Bering Sea, February 5, 1965.

Agreement with U.S.S.R. on the Contiguous Fishery Zone, February 13, 1967.

Agreement with U.S.S.R. Concerning Claims Resulting from Damage to Fishing Vessels or Gear and Measures to Prevent Fishing Conflicts, February 21, 1973.

South Korea

Agreement with South Korea Concerning Cooperation in Fisheries, December 12, 1972.

MR. STEVENS. Mr. President, I see my colleague wants the floor, to inquire whether this amendment may become a part of the original text. If he wishes to have that understanding, I would move the adoption of my substitute for the committee amendment.

THE PRESIDING OFFICER. Is there objection to the adoption?

MR. GRAVEL. Reserving the right to object, if I may make that a unanimous-consent request, I ask unanimous consent that this amendment be treated as original text.

MR. STEVENS. That is understood.

THE PRESIDING OFFICER. Without objection, the amendment is agreed to and it will be considered as original text.

MR. STEVENS. Mr. President, I move to reconsider that vote.

MR. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MR. President, may I inquire what is pending now, after the adoption of this amendment?

THE PRESIDING OFFICER. The Commerce Committee amendments in the nature of a substitute for the entire bill, as amended.

MR. MAGNUSON. I thank the Chair.

MR. GRAVEL. Mr. President, may I be recognized?

THE PRESIDING OFFICER. The Senator from Alaska.

MR. GRAVEL. I wish to engage in colloquy the Senator from Ohio. This is the first time I have had the opportunity to hear publicly the reasoning behind his amendment which, of course, has now been adopted.

I wish to address myself to that reasoning, because I find myself at slight variance with some of his views and I find myself in agreement with other of his views. I think it would be helpful to clarify both the agreements and the disagreements.

One, I did not detect a misunderstanding in the international community, and I devoted some amount of time to going to New York and to Geneva.

MR. TAFT. If the Senator will yield, I shall be a little more specific about that. In December, I was in Paris at a meeting of the Trilateral Commission. That is an informal commission. It is not a public group.

If the Senator will check, I think he will find that it has many very prominent citizens, even public citizens, of the various nations of NATO and of Japan and the United States involved in it. I am a delegate to that commission. We have a number of study papers.

One of the study papers that was presented at that meeting was a paper on the future of the oceans. One of the general subjects that was discussed in this whole question of the Law of the Sea Conference was the necessity of making progress in this field. So I was dealing with members of the Trilateral Commission and scholars with regard to it who are familiar with this entire area, or thought they were familiar with it. In mentioning the legislation, it became very apparent that there was not anybody in the room, with the possible exception of one staff person and myself, who realized that the pending legislation in the Congress of the United States related only to fishing and did not relate to a wide-open extension of the limit to the 200-mile limit in every direction. It was to the specific contact that I made reference.

Mr. GRAVEL. I certainly do not dispute that at all. That is information and experience that my colleague picked up. If I could re-posture what the status of this issue is in the international community, if my colleague will bear with me, I think he might find it interesting.

One, again, let me state that there may have been some misunderstanding within this community that the Senator ran into. But with respect to the foreign interests who have come together at the Law of the Sea, there obviously is no misunderstanding, because that is their job. A person who represents France knows what is going on at the Law of the Sea Conference and he reports to his government. It is certainly not unusual to have other parts of the government that may know exactly what is going on; that happens in our Government. But certainly, France knows very well through their experts in this field what this legislation means, and so it is with other nations. I have never picked up anywhere that anyone who could properly read the English language did not know that all this talks of is conservation and fisheries.

Other departments of other governments may have misunderstood, and that is undoubtedly what my colleague ran into.

Mr. TART. If the Senator will yield, I would say it was a little more broad than that. We were dealing with scholars, who had spent some months preparing, from the various powers represented at the commission. These were scholars who were present. They were dealing with what was happening at the Law of the Sea Conference. They were not dealing with what is happening in the Congress of the United States; they did not have any idea, frankly, what is happening. Yet these men were holding themselves out as scholars and had read the paper, with the representation of all the various nations who are members of the conference.

Mr. GRAVEL. Certainly, my colleague will agree with me that if these are the scholars he thinks they are, and I am sure they are, they can read the English language, and there is nothing in English, that I know of, that appeared in the Congress of the United States with respect to this legislation that did not deal with fisheries and conservation. They may have some other views as to what is involved in navi-

gation, and I shall go into that. That is, of course, the heart of the point of the Senator from Ohio. He is trying to clarify something.

I must confess that it has not been clarified, because the misunderstanding in the international community is not on what we are doing. What we are doing is very well understood. All one has to do is be able to read English. They can read this bill. Every embassy in Washington has copies of this bill and they can read it if they want to, so there is no misunderstanding, and really never has been, among government and scholars, because the bill was never represented as anything but a fisheries bill.

What my colleague is referring to is really what will take place with the passage of this legislation. That is, very simply, that we can choose to act unilaterally for 200 miles involving fishing. [Sec. 101] But what is to stop another nation from saying, "Well, the United States of America can go ahead and grab 200 miles for the purpose of taking possession of these fisheries and the economic benefits that could potentially accrue to its citizens." If the United States can do that, then what about Malaysia and Indonesia, which do not have a similar fish and economic interest, but have another economic interest; that is, the passage of tankers through the Straits of Molucca that borders their coastline? If a supertanker going through the Straits of Molucca were to sink, it would destroy the beaches of those countries. So, obviously, if the United States of America can grab 200 miles for a fishing industry, why cannot Indonesia and Malaysia grab the Straits of Molucca and say, "We are now going to handle the traffic that goes through these straits to protect our interest."

In terms of the legal ramifications, their invasion upon international law or the breaking of international law is no different from what we would be doing unilaterally in breaking international law. That is, of course, why most of the scholars on international law in this country have stated that our actions will break the law, and will place in motion events in the rest of the world.

That is the reason that the Committee on Armed Services, on which my colleague serves, was so distraught over this legislation, why the Joint Chiefs of Staff have testified that if this passes, it is not that it is written in this bill, but what we do unilaterally will now permit other nations to do unilateral things as they perceive them.

Mr. TAFT. If the Senator will yield, let me say that the Committee on Armed Services was not so distraught in numbers that we did not, by a majority, pass the bill out favorably. There may have been some members of the committee, but I have to correct the gentleman as to what the conclusion of the Committee on Armed Services was.

Mr. GRAVEL. I did not say what the conclusion of the committee was. I merely stated its concern.

Mr. TAFT. Let me point out the language of the committee report, the Committee on Armed Services, on page 6, which states as follows:

There has never been, however, a clearly defined international rule limiting the jurisdiction of coastal states over fishery resources. Freedom of fishing, particularly in recent years, has not been an unqualified right. Indeed, the Geneva Conventions recognized the special right of a coastal nation to unilaterally adopt conservation measures off its shores, even in areas of the high seas. Certain limitations on fishing activity are generally accepted. As the International Court of Justice stated in Fisheries Jurisdiction Case (1974) ICJ 26:

"State practice on the subject of fisheries reveals an increasing and widespread acceptance of the concept of preferential rights for coastal States, particularly in favour of countries or territories in a situation of special dependence on coastal fisheries."

The Court went on to emphasize that:

"The preferential rights of the coastal State come into play only at the moment when an intensification in the exploitation of fishery resources make it imperative to introduce some system of catch-limitation and sharing of those resources, to preserve the fish stocks in the interests of their rational and economic exploitation." *Ibid.* 27.

That is good international law. I would say to the Senator I do not think it follows that that reaction to our, I think, perfectly legitimate action would be justified in the other areas he is talking about which do not relate to these areas of international law at all.

Here we are trying to protect the interests of all who are concerned with conserving fish resources. The entire world basically is interested in this. I do not think the analogy or the reaction is one that is sound for the purposes of this argument.

Mr. GRAVEL. Let me just state that the international experts who have come forward on this issue are at variance with my colleague. They do feel that these acts in question would violate international law, and I can cite the names of Jessup, and others, and I will find them, they are right before me, the quotes in question that just following—Let me first make inquiry of my colleague. Would he accept William W. Bishop, professor of international law, Michigan University; Philip Jessup, former justice, International Court of Justice; Louis Henkin, Columbia University, professor of international law; Louis Sohn, Harvard University, professor of international law; and R. R. Baxter, president of the American Society of International Law, Harvard University. Will my colleague accept these gentlemen as having some knowledge and some views that would be worthy to adhere to if they unanimously agreed that the passage of this legislation would be in violation of international law?

Mr. TAFT. Those are very eminent gentlemen. I do not want to get into an argument about international law. As the Senator knows, the whole area of international law is not anything of statute but of opinion, and one expert's opinion may be as good as another. But it does seem to me if they feel contrary to the ruling of the International Court of Justice they are going certainly against an esoteric body in international law. The opinion I quoted was right from the International Court of Justice.

Mr. GRAVEL. Which opinion is that?

Mr. TAFT. I just gave the Senator the citation. The name of the case, the citation, is Fisheries Jurisdiction Case, 1974, International Court of Justice No. 26.

Mr. GRAVEL. Well, let me disagree with my colleague and just quote from that same opinion he is reading from. That opinion cannot be represented as being in agreement with this legislation. In fact, it is just the opposite.

The concept of preferential rights is not compatible with the exclusion of all fishing activities of other States. A coastal State entitled to preferential rights is not free, unilaterally and according to its own uncontrolled discretion, to determine the extent of those rights. . . .

The characterization of the coastal State's rights as preferential implies a certain priority but cannot imply the extinction of the concurrent rights of other

States and, particularly, of the State which has for many years been engaged in fishing in the waters in question, such fishing activity being important to the economy of the country concerned.

The coastal State has to take into account and pay regard to the position of such other States, particularly when they have established an economic dependence on such fishing ground.

Of course, this is the Icelandic case, and Iceland lost the case with respect to 50 miles. They declare for 200 miles, but they lost this case.

How can my colleague come forward and say this is the reason this is legal? It states it here in the English language that obviously it is not.

Mr. TAFT. Of course, the key word in the statement made by the Senator was "preferential." I do not think the right we are attempting to assert in regard to this particular legislation is preferential at all. I do not think we are dealing with the same case.

There is further language from the Icelandic fishing jurisdiction case which is quoted in the report or the memorandum of the Senate Foreign Relations Committee on this subject on pages 12 and 13 in a memorandum dated November 21, 1975, which reads as follows:

There are no well-founded arguments in . . . binding character of the 12-mile rule; those built upon *ad hoc* interpretations of articles in the 1958 conventions do not convince. The 1958 Conference failed in its attempt to fix a limit to fisheries jurisdiction. How can one deduce from the conventions what the parties to the Conference refused to say.

In our view, to reach the conclusion that there is at present a general rule of customary law establishing for coastal states an obligatory maximum fishing limit of 12 miles would not have been well founded. There is not today an international usage to that effect sufficiently widespread and uniform as to constitute, within the meaning of Article 38, paragraph 1(b), of the Court's Statute, evidence of a general practice accepted as law.

* * * It could therefore be concluded that there is at present a situation of uncertainty as to the existence of a customary rule prescribing a maximum limit of a state's fisheries jurisdiction. No firm rule could be deduced from state practice as being sufficiently general and uniform to be accepted as a rule of customary law fixing the maximum extent of the coastal states jurisdiction with regard to fisheries.

What they are talking about there and what the Senator has just pointed out are preferential fishing rights. That is not what we are attempting to do, and I submit the language I read at an earlier time from the Armed Services report does show clearly there is some international law backing, strong international law backing, for the position that in the regulation, proper regulation, of fishing, as we attempt to do in the legislation, there is no violation of international law involved.

Mr. GRAVEL. Let me just read the findings of that court decision that the Senator is resting his opinion on. The court decision was 10 to 4, and there are two findings:

(1) finds that the Regulations concerning the Fishery Limits off Iceland (Reglugero um fiskveiðilandshelgi Islands) promulgated by the Government of Iceland on 14 July 1972 and constituting a unilateral extension of the exclusive fishing rights of Iceland to 50 nautical miles from the baselines specified therein are not opposable to the Government of the United Kingdom.

(2) finds that, in consequence, the Government of Iceland is not entitled unilaterally to exclude United Kingdom fishing vessels from areas between the fishery limits agreed to in the Exchange of Notes of 11 March 1961 and the limits specified in the Icelandic Regulations of 14 July 1972, or unilaterally to impose restrictions on the activities of those vessels in such areas.

Now, my colleagues will permit me to say that is exactly what this legislation will be doing. It will set up a conservation practice to the

exclusion of foreign fisheries. So if the court found Iceland's action with respect to 50 miles to be illegal, then obviously the court would similarly find it illegal with respect to the United States of America for claiming 200 miles.

I do not know. We can read the various memoranda we want from any individual who is prepared to write a memorandum. But I just read the language of the findings of the International Court. Would my colleague disagree with the interpretation I placed on finding number (2). I will read it again. Finding No. (2) :

Finds that, in consequence, the Government of Iceland is not entitled unilaterally to exclude United Kingdom fishing vessels from areas between the fisheries limits agreed to * * *.

And so forth.

MR. TAFT. I believe I made the point very clearly a few minutes ago. The Senator is talking about Iceland's setting up a preferential decision which is not pertinent to this legislation.

MR. GRAVEL. I must confess I do not understand my colleague in the statement he just made. I could not hear him clearly.

MR. TAFT. The situation, as I made clear earlier, is that in that case Iceland is attempting to establish a preferential position within the area involved. That is not what is involved in this legislation, and I think it completely distinguishes the holding in that case. I think the rationale of the case which I read is pertinent to show there is ample authority for us to say that we are not violating international law by the passage of this legislation.

MR. GRAVEL. My colleague, unfortunately, was not here for the colloquy yesterday with the Senator from Alaska and the Senator from Washington, and obviously he has not been appraised of what this legislation will do.

They have admitted on the floor that this legislation is being put forward so that we can exclude foreign fishermen.

We are not talking about preference. We are going to be excluding. My colleague from Ohio can dismiss this out of hand, but at least if one is supporting the legislation for a reason, understand the reason and understand that this legislation that is going to be passed here is going to give us total, unequivocal authority over all fishing activity within 200 miles. [Sec. 101]

We are not talking about just taking preference. We are taking the whole show. That is what the international court of justice ruled that Iceland could not do.

MR. TAFT. Of course, in that case, it should be said the Court of Justice ruling on the Pacific Treaty between Great Britain and Iceland, which we do not have involved in this situation at all.

MR. GRAVEL. Well, we had several treaties, over 30 treaties.

MR. TAFT. The gentleman is still not getting the main point, which is that we are not setting up a preferential position for the United States in this situation, which is what the situation was in Iceland.

MR. GRAVEL. I must disagree with my colleague on what is his obvious interpretation.

Is he saying, if we are trying to set up a preferential right for somebody, then we would be doing something illegal; is that what he is saying?

Mr. TAFT. It would certainly be a very different question of international law involved.

I believe there would be much more serious question of international law than merely attempting to regulate the area as to fishing activities of all nations, including ourselves.

Mr. GRAVEL. But we are not attempting to just regulate the area. We heard it stated on the floor yesterday, and I will quote from the Record if the Senator wants, that we want to exclude foreign fishermen.

Mr. TAFT. And our own.

Mr. GRAVEL. It is not a question of just regulating.

Mr. STEVENS. Will the Senator yield there?

We did not say we are going to. We said we would like to. This bill does not go that far.

Mr. GRAVEL. Obviously, if we are going to acquire this kind of power—and the Senator stated publicly for the Record—which is the backup of the law and if there is ever a judicial contest in this regard, they will obviously come back to find out what we meant. The Senator stated very clearly what we meant, to take over the whole show.

Fine. Maybe one does not care if the rest of the world eats. We are the wealthiest nation in the world. Maybe one can jam it down everybody's throat. We can put destroyers beside every fishing vessel we have here, but I do not think it will work or stay.

But I would not like to get tied down to this facet of the colloquy with my colleague from Ohio, because the difference of opinion is even more fundamental than that.

We can disagree, we can split hairs over what the legal case would be, but understand this—and this is the point I made before—the Senator is putting forth his amendment that postpones this until next January, and he is going to vote for this bill with the thought this will give the Law of the Sea time to act. [Sec. 401]

We are not the only party in the Law of the Sea with sovereign interests at stake. I think we are probably the most sophisticated and probably, certainly, one of the wisest.

So we could pass the bill here that says when they pass the Law of the Sea, this part of the bill will self-destruct. That is fine. But what we do here in the bill does not make any difference. This could just be a blank piece of paper that says we take 200 miles. That is what will cause the impact.

With Mexico, 6 days after the House passed it, they moved on the 200 miles. They did not care what the details of our bill were. They moved on a unilateral course of action in their economic interests, as they saw those economic interests.

So what it will cause in the passage of this legislation is not the niceties that we have written down in the language. What we are going to do is signal to the world that, "Nations of the world, the United States of America was in the forefront of leadership in trying to arrive at an international Law of the Sea agreement. But now, the Congress of that great Nation does not believe that an agreement will take place and so we are frustrated and disgusted and giving up the ship. We are going to move now unilaterally."

So it tells Mexico, it tells Canada, it tells France, it tells Great Britain, it says, "Hey, everybody, go out and get what you can right now; forget it, don't worry about that conference; that is just for political dilettantes and diplomats. For you to protect your interests you have to do it unilaterally."

That is what this legislation will do. It will trigger the opening of the floodgates of the world and will create anarchy on the seas. When it does that, it will doom the Conference. Therefore, we will have no Law of the Sea, we will have no constituted 200 miles, we will have no system of navigation that will be worth a darn.

That is the reason why the Armed Services is concerned, not because this is a fisheries deal. Senator Magnuson has stated often, and I agree with him, this bill does nothing with respect to transportation, it does nothing with respect to the Armed Services, it does nothing with respect to the foreign policy.

But then why go to those committees? For the simple reason that it is not the bill and the language that does it. It is the impact of the passage of this bill that does the harm.

So if we have a legitimate interest to protect the economic well-being of our citizens—and I feel we do have an interest—then why does not Spain, Morocco, Malaysia, Indonesia, Iceland, anybody who perceives an interest, why can they not do just as we do and just pass a law in their government and go take it? Why can they not do this?

If we can do it, why can they not do it? That is the question I pose to my colleague. The passage of this will open up the floodgates. We think we are doing something that is right.

I believe we have to be correct and say that if the Mexicans want to do something they think is correct and right, why not? If the Brazilians want to do it and they think it is right, why not? If the Malaysians, Indonesians, Moroccans, and Spanish want to do it and they think it is right, why not? We have done it. I would like the proponents of this legislation, and my colleague from Ohio, to answer that simple question: If the United States of America does it, why cannot another country do it also as they perceive right?

Mr. STEVENS. Mr. President, I believe the Senator from Ohio has raised a very interesting point. Our negotiators have been spewing forth this red herring rhetoric so long against the 200-mile bill as it has been before the Congress that when they get to these international conferences they lead the foreign nations to believe that we are doing what they fear the foreign nations might do, which they ought to know we are not.

As a practical matter, I am alarmed to hear my colleague talk about anarchy on the seas as a result of unilateral action. Harry Truman took unilateral action in 1945 and declared the Continental Shelf doctrine which led to the protection of the Alaskan king crab. There was no anarchy on the seas. The other nations of the world did not claim national jurisdiction out to the edge of the Continental Shelf. As a matter of fact, some nations followed us in terms of giving protection to the creatures of the shelf. It eventually led to an international convention on that subject.

(Mr. Percy assumed the Chair at this point.)

Mr. STEVENS. So there now is fairly stable international law in that area.

Then we come down to the 3-mile limit. Our two predecessors from Alaska, with the great help of our distinguished neighbor from Washington (Mr. Magnuson), proposed that the United States extend its jurisdiction for a contiguous zone of 9 miles in order to protect fisheries.

At that time, the Defense Department, the Joint Chiefs of Staff, the State Department and everybody who were involved in negotiations internationally, screamed this would bring about anarchy because if we extended our jurisdiction out to 9 miles, all the nations of the world would follow suit, all the straits would be closed and there would be all of these horrendous problems. What happened? The other nations of the world calmly followed our suit and did in fact establish a 9-mile contiguous zone.

The interesting thing is when they went to the international conference and tried to work out an international accord on what they had already done, they could not agree that what they had done was right, so negotiations were terminated. We never actually had a treaty on the seaward jurisdiction from the shores of a nation. They did meet twice, but I am informed they did not come to a conclusion. They finally gave up and went home.

Now the Senator says to look at Iceland, the problem about Iceland, Great Britain, and the international court. In the first place, the Iceland case involved the intentional abrogation of a treaty by Iceland. We are not abrogating treaties. We have specific directions to our State Department to negotiate the changes that are necessary to comply with our existing treaties and we specifically state we are not abrogating any treaties.

MR. GRAVEL. Will my colleague yield on that point?

MR. STEVENS. Let me finish this first.

Second, when we come to the Iceland case, Iceland in fact extended its jurisdiction beyond its original claim even after the international court handed down their decision. It is my understanding that there has recently been a settlement—at least this is what the radio says though I have not seen it in documented form—based upon the fact that the British have pulled out of Iceland's claimed fisheries zone.

Iceland did not create, as does S. 961, a conservation zone. [Sec. 101] They did not attempt to set up a situation whereby the people of Iceland could harvest to the extent of their capability and that the foreign nations could take the difference between what Iceland takes through its own fleet and a sustained yield capacity of the fishery involved.

S. 961 provides for the creation of a fisheries conservation zone. [Sec. 101] We have said we will set up a system. We will find out what our fishing capability is and who wants to fish. We will set up their own management system and will allow foreign fishing to the extent that we have no ability and no desire to fish for these species. [Secs. 2; 102; 201; 204; 303]

Foreign nations will be able to fish "to the extent they comply with good conservation practices and curtail their catches to sustained yield limits." [Secs. 201; 204] That is entirely different from the Iceland case.

Third, we get down to the point of negotiations. One of the interesting things about the North Pacific Fisheries Treaty is that following

the congressional action on the 12-mile zone, the North Pacific Fisheries Treaty was not renegotiated. So the line still comes through the State of Alaska out on the Aleutian chain, and beyond that line going west they fish up to the 3-mile limit. East of the line they fish up to the 12-mile limit. It is an interesting thing.

The State Department ignored the act of Congress before. This time we have directed them to renegotiate that treaty. We are not abrogating the treaty, but we are directing them to renegotiate it. [Secs. 202 (a) (1) ; 202(b)] There is a means to get out of that treaty in the normal sense of international law if they fail to come around to our point of view.

They do not have to come around to our point of view in the negotiations, that is true. But if they do not, and if they do not come back with a treaty and let the Senate take a look at it and see what they have done, then we will, in fact, abrogate the treaty eventually. [Sec. 202 (b)] I would be the first to lead that battle if they do not come around to good conservation practices.

Lastly, let me tell my colleague that the great problem that we have in terms of communication is that I fear a great many things my colleague is saying here in the Chamber are going to be read by the international community. They are going to read that a Senator of the United States has stated if we extend our zone on a conservation basis, which is quite similar to what Canada did with its pollution zone, that other nations would be free to extend their jurisdiction over any ocean activity. I am sure the Senator is familiar with it. Canada did it on a unilateral basis and they have notified us they will enforce it. We are doing it to conserve fish. [Secs. 2 ; 101] What the Senator is saying is that if those people who have the power to do so were to close the Straits of Gibraltar, they would be justified if we do this.

I hope the Senator does not mean that. In international law there is a great deal of difference between extending national jurisdiction and interfering with freedom of the high seas and setting up conservation methods for protecting the living resources beneath the seas. That is all we are dealing with in S. 961, living resources [Secs. 2 ; 101] Internationally we have led the world in trying to establish conservation methods for the protection of living resources. I would name the whales, the ocean mammals, and the whole concept of our trying to follow good conservation practices in terms of our own fishermen imposing limitations upon themselves.

There are some king crab fishermen here today. They voluntarily asked for permission to establish quotas. The halibut people came in and said, "Give us a mechanism for establishing quotas. We want to protect our future."

The whole concept of dealing with American fisheries has been toward the goals of sound conservation practices.

On the contrary, we are dealing with nations who abhor conservation practices and set economic quotas for goals for production. That is the great fear I have, that people will read what my colleague has said and say to their parliamentarians, "Look, here is a U.S. Senator who has said if they do this, if they establish a conservation zone, we would be perfectly justified in closing the Straits of Malacca or closing the Straits of Gibraltar."

I am sure my colleague does not mean that they would be justified. The question would be whether it was sound international law. There is no decision with which I am familiar which says that a nation cannot establish conservation principles off its shores and enforce those equally against its own citizens and citizens of other nations. I think the Canadian pollution example is a significant example of that. We did accept their decision to close the Northwest Passage because of that unilateral assertion of pollution jurisdiction.

We are doing the same thing here. But we are not claiming national jurisdiction. This is what the Senator from Ohio was saying when we go to these international bodies and these people say, "We understand from your negotiators that you are about ready to extend your national jurisdiction."

That happened to us when we were in Caracas. I could not understand it, because I do not know of a bill before the U.S. Senate that would extend national boundaries in that sense. They ought to know and understand such distinctions at a conference on the Law of the Sea.

But our people have become so emotional in their opposition to what we are doing that I think they are misleading negotiators from other countries. As I told one of them the other day, if we pass this law they are going to have to go back to those nations and explain what we have done, and they will find themselves strangers to their own words which they have uttered in the past with respect to what the situation is.

I, for one, support the concept of a Law of the Sea Treaty to form the basis of a framework of international law. I believe many of the present laws are antiquated and need to be changed. We have identified 115 issues for the Law of the Sea Conference. Almost 150 nations are involved. There has not been one vote on any one issue in the Law of the Sea Conference to this date.

I would ask the Senator, if we had 100 brand new Senators representing 50 States, how soon does he think we would get around to voting on 115 issues—mind you, each one subject to an amendment being offered by any one of the nations involved? How long does the Senator think it would take us, in this Senate, to reach a conclusion on 115 issues in an area so complex?

The people who come here as Senators theoretically have been educated in the legislative process, or at least involved in public life, and understand how these things run. The thing that interested me at Caracas was the number of people who had never participated in a democratic process before. They are learning what is involved in an international legislative process on the law of the sea. Even our State Department people apparently think they are negotiating something like a bilateral treaty. But they are legislating, creating new international law; and the more I see of them, the more I hope they do take their time, because the State of Alaska, with almost 70 percent of the Continental Shelf area of the United States, has as much at stake as anyone in its future with regard to the seabed and the right to the use of the seabed as in other issues. The predominant issue is our fisheries issue, because after the minerals are gone, after the oil and gas are gone, the thing that will sustain people in our area of the United States will be renewable resources. That is why we are so confident that it is in our best interest to move and not wait.

I say that what the Senator from Ohio has brought up is a good point, and it would be highly important for all of us to keep in mind that other nations of the world do read this Record and analyze it. I would hate to see the time come when someone could justify the claim of expansion of jurisdiction over a strait on the basis of a statement of my colleague that if we do what I think we are going to do, then they would be justified in what they contemplate doing.

Mr. GRAVEL. Mr. President, I will admit right now that I am no genius. In fact, I am not even an attorney. But if we can do something unilaterally, why cannot other countries do something unilaterally?

In fact, the Senator gives me the best argument. He said Canada's moving unilaterally in the Northwest Passage was OK. But look what Canada did in the Northwest Passage. An American vessel cannot sail from New York to Alaska through the Northwest Passage without permission of the Canadian Government. If the Canadian Government does not like the cargo, it is not going to go through those waters, even though those waters may be beyond the territorial seas limit of 3 or 10 miles.

So that is not the question. If the Canadians can take the Northwest Passage and stop transportation because of environmental reasons, then why cannot Spain and Morocco regulate transportation through the Straits of Gibraltar on the basis of environmental reasons?

The Senator says we are special in the United States, because this 200 miles deals with living resources [Sec. 101] What does the Senator think will happen to the living resources off the coast of Spain or Indonesia if there is a major tanker spill? What does he think will happen to the living resources in the Mediterranean if a nuclear submarine explosion pollutes the area?

Obviously, if we have the right to unilaterally step forward and say, in violation of international law, "You cannot come within 200 miles of this coast and fish unless we tell you you can," if we can do that unilaterally, why cannot the Spanish Government say to the United States, "You cannot have one of your tankers come through the Straits of Gibraltar without checking with us, because that tanker may ruin all of the living resources on our coastline"?

If we can do it, why cannot the Spanish do it? I think it is the height of arrogance for us to sit here as Americans and say the world is our oyster. It is not our oyster. The world belongs to all mankind, and we all have responsibilities in that world.

When the Senator makes the argument that, "Well, there are 115 issues at the Law of the Sea Conference, and it will take time immemorial and 115 votes," I remind him that there are 200 issues involved in this matter. The Senator has said there are some 200 odd stocks. We could have a vote on every single stock in this body. Why are we not doing so? Obviously, there is consensus. It is very rare that we have 100 votes on any measure. Yet we get some very complex measures. Why do we not have a hundred votes? Because on the issues in question we have consensus.

That is essentially what they have at the Law of the Sea Conference. I doubt that we will see 25 votes of substance at the Law of the Sea Conference. We may see a number of votes on procedural questions, such as we see here in the Senate, where a full third of our votes are not on the substance, but on the procedures, on the mechanics involved.

So when my colleague says we are not going to get the Law of the Sea very quickly because there are all these questions to be voted on, that is a scare tactic that does not wash with the legislative experience we ourselves have.

Authority after authority has come forward and stated that the Law of the Sea Convention is close to arriving at a solution—so close that in the resolution just passed in the month of December, appropriating the money within the United Nations for the conference, they spoke of the appropriation they would have to take up to send all the delegates to Caracas to sign a final document.

If the Law of the Sea is so far away, why is it that those who are so busy with the housekeeping duties at these international conferences are already worried about the housekeeping duty of taking delegates down to a place to sign the final agreement? Obviously, only because they are convinced that we are close to resolution.

I would pose a question in the form of a challenge to my colleague. Cite me the points at issue in this conference on which there is not consensus. We have consensus on research, we have consensus on fishing; the only area on which we do not have consensus at this point in time is the area of deep sea mining. If we had an agreement tomorrow on that issue, we would have a law of the sea, for all intents and purposes.

So if we are truly that close, why do we want to jeopardize it with this legislation?

We can find other ways to protect these fish. We can find other means to protect the American fishermen, our Alaskan fishermen. If you want a management proposal, why not go for a management proposal with changes to accommodate our interests?

But to make the argument that the world would be irresponsible if they acted as we act and presuppose they will not do that, then I submit that is a kind of jingoistic, chauvinistic arrogance that is difficult to understand.

We certainly are the most powerful nation on Earth, but in international law and in the conduct of human affairs around this globe they certainly are our equals, if they choose to do something emulating our conduct and if we choose by law and our sovereign power to stretch our boundaries out 200 miles [Sec. 101], regardless of what reason we give for that boundary. For us it may be fisheries, for another nation it may be the territorial sea, for another nation it may be the patrimonial sea, and for another nation it may be just conservation. But when we act as we view our interests, then we should expect every other nation to have that same right. If we do not, then there is something wrong in our perception of other human beings.

So, if they truly do have that right, exercise it, and as they exercise that right they destroy the Law of the Sea Conference, then what have we gained for our fishing community?

I stated earlier and I shall state it again, this legislation, from the point of view of taking 200 miles to protect our fishermen and to protect our fish [Sec. 101], is a political palliative. It is no more than that. When we take this sovereign power, we have to be prepared to back it up with police power. The Committee on Commerce, in their deliberations, knows that there is no authorization for the money to go police what they have done. [Sec. 406] So all they will have done is make an

empty declaration that cannot be enforced, and we will have pandemonium. If anything, the nations will disregard the treaties they presently have and will fish to the ultimate for fear that we will turn around and get the police power to drive them out. Therefore, what will happen is we will have 5 to 10 years of anarchy on our seas.

Who will be hurt? It will not be me. It will not be the senior Senator from Alaska. It will not be the Senator from Washington. It will not be any Member of this body because our paychecks go on. But next year, if there is no salmon in Alaska for Alaskans to fish because foreign interests have accelerated their fishing activity, who is going to provide for the fishermen? If there are no fish on the east coast of the United States for the east coast fishermen to fish because foreigners have accelerated their fishing activity in violation of bilateral agreements, who is going to provide for them? Those bilateral agreements will not be worth anything any more after this passes. Then who is going to pay? Who is going to give them the money to feed their families next winter at this time after they have had a bad year and after they may have had their vessel damaged in conflict when there is no backup of our military forces?

Let me state again that this legislation is a palliative. If it truly is a conservation measure—and we got into a colloquy earlier and stated this—and they want to protect those overfished stocks, if that is all they want to do, then let us do just that. Let us not try to set in motion actions around the world that will ruin all fisheries and will ruin all relationships between nations. If they only wish to protect those stocks, if they only wish to have the conservation of stocks, then let us do it with those overfished stocks. I shall add two more stocks to it: If they want a solution then let us concentrate on solving the problem of conservation in these 16 stocks. To do that we do not have to disrupt the International Law of the Sea Conference. We do not have to disrupt the world in the process. We can do it a little more moderately than has been suggested by the committee.

I think that rebuts the statements made by my colleague.

Mr. President, I shall ask unanimous consent to print in the Record two papers I have that I think state it very clearly, and I do underscore the fact that I have been using authorities in international law. My colleagues who are for this bill have not come forward with any authority in the area stating that their bill is legal. They give their opinions, and their opinions are valid. Many of them are fine attorneys. I shall not cast any aspersions about their knowledge of international law, but I shall merely say that the people whose quotes I shall have printed in the Record at this time have spent their entire lives in this area of jurisprudence. To a man they think that the passage of this legislation would break international law, and to a man they think that the legislation as it existed prior to the passage of this last amendment would break our treaties.

We have done an interesting thing here, and I think my colleague from Alaska did make the admission that when we passed the 12-mile limit the Japanese continued west of the abstention line to fish within the 12-mile Alaska territorial waters for salmon. We did not say anything.

But under this proposal I think it is understood—and if it is not understood I would like the senior Senator from Alaska to correct the

Record—that if we pass the 200 miles we will not permit the fishing of salmon within 200 miles, because we have represented to the people who fished salmon that this is going to protect the salmon stocks of this Nation.

Therefore, the question I pose is, if it really is going to happen that they are not going to let the Japanese fish within 200 miles, then they do break the abstention treaty and then the Japanese can come in and fish within the Gulf of Alaska east of the abstention line for as much salmon as they can take.

The tragedy here, of course, is that one representation is being made to the fishing community and another thing in fact will take place.

Yet I am not sure what in fact will take place because when the chairman of the Committee on Commerce (Mr. Magnuson) makes the statement that he does not want to see any foreign fishing at all, then I think that a lot of fishermen can take that and say, "Well, that is what we are going to get." That may be what they will get; that may not be what they will get. That remains to be seen. But I think a lot of the support of the fishing community is based on the hope that they are going to get that. But I think in point of fact we all know that is not what they are going to get—which gives substance to the point I made that this is palliative.

Mr. President, it would be a very serious mistake for this Senate to move on this legislation. I think we could pass a conservation measure within which one could address oneself to this problem. We have a number of multilateral agreements and we have negotiations in process which can even improve upon those agreements that we now have to safeguard our fishery stocks. So, if we can find a way to safeguard our fishery stocks, then there is no reason for us as a nation to act unilaterally. We have every reason in the world to wait with patience until we can secure agreement of the Law of the Sea Conference which is very imminent.

Mr. President. I shall only add that the good faith of those who are negotiating—and we have heard them ridiculed on this floor and we have heard them reviled—the good faith of our negotiators and the good faith of the foreign negotiators is demonstrated by the fact that in December when the United Nations agree on the dates from March 15 to May 7 at which time to have the fourth Law of the Sea Conference, the President of the Law of the Sea Conference, H. Shirley Amerasinghe, rose and delivered a speech, and it was included in the text of the resolution, that money would be set aside for another conference to take place in the summer of next year in the event that the spring conference did not complete its work.

So the international community thinks that the Law of the Sea is so imminent that this year, rather than have one meeting, they are prepared to have two meetings to see the issues resolved in 1976.

We are talking about a time less than 2 months away. We just adopted an amendment that would make this legislation effective now but enforceable next year. [Secs. 104; 312] It means—to use the argument of my colleague—that we will have this legislation so that we can begin to work to set up the infrastructural bureaucratic systems; but, in point of fact, the legislation will not be enforced until next year. [Sec. 312]

If that is the case, why do we not take out from this measure the part that declares the 200 miles [Sec. 101] and wait until next year and pass the part that deals with the management section [Secs. 102; 301; 302; 303; 304; 305]? So, in point of fact, we could accomplish what the committee wants to do, and that is to have that section, so that they can get to work; but as to the section that comes into being next year, with respect to enforcement [Sec. 312], we can pass that next fall, and that would give us the Law of the Sea Conference in March and would give us the Law of the Sea Conference in July, to see if they could work their will and accomplish what needs to be accomplished.

I think it is foolhardy. If you were to canvass the leadership of the delegation at the Law of the Sea Conference, you would see that they live in trepidation that the most powerful Nation on Earth will set in motion a chain reaction that could destroy the Law of the Sea. Why should we take that risk, if this bill is not going to go into effect, is not going to be implemented [Sec. 312]? That facet of the bill is not going to be implemented until next year. Why take that risk? What is to be gained, I ask the proponents of this legislation? What is to be gained by endangering the Law of the Sea Conference that is going to take place on March 15 and another one in July, if they do not finish their work? Why do we have to pass this facet of the bill, when the committee could hang on to this and put it on the calendar in September and pass it in September if the Law of the Sea Conferences are not successful, or if progress is not shown? [Sec. 312]

Why jeopardize the Conference? I do not know why.

In fact, they have set up a self-fulfilling prophecy. They have said that this will not jeopardize the Conference if we pass it. And if we pass it, at the same time they say the Conference is not going to do anything worthwhile for 5, 8, or 10 years. If this bill is passed and the Conference fails, whose fault is it? Obviously, it is not the fault of this bill, because the Conference was not going to do anything, anyway. So if you structure the situation as a self-fulfilling prophecy, you cannot lose.

I ask, why take the gamble? Take the part of this bill that deals with setting up these regions—corrected [Secs. 301; 302; 303; 304; 305], I hope, with some proper amendments—take out of this bill the items that deal with declaring a 200-mile area [Sec. 101], and hold that until we see what happens at these two imminent conferences. It will not make any difference in the law. It will not make any difference to the fishermen of the United States or of my State, because they are not going to get any benefit from this. The bill is not going to go into effect until next January. [Sec. 104]

Whom are we kidding? Are we going to run home and tell the fishermen of the United States, "We have really done it for you; we have a 200-mile bill"? It does not affect them until next year. Why do we not wait until September? The stakes for the fishermen of my State and of this Nation are great in the International agreement. Rather than costing hundreds of millions of dollars to police our fisheries under the 200-mile bill [Sec. 406], we will be able to police our fisheries for almost nothing under the international agreement. Rather than having to fight and negotiate over the next 10 years about every detail of every fish stock, we will have it made under the international agreement. There will be general consensus. We will have a world of law, so that if fishermen do not like the way things are being done, they

can take the issue to the international court. They do not have to go to the State Department. They can go to the international court to get their interests protected. That is what is at stake.

How tragic it would be to the fishing interests of our State, of our nation, and of the human race to risk all this. I do not know what the motivation is. Perhaps before this debate is over, the proponents of this bill will come forward and will tell us why we have to have the 200-mile zone now [Sec. 104] and have it enforced a year from now [Sec. 312], and why we cannot wait and let the international conference work its will. I would like to know why it has to be done now. Why jeopardize this conference and everything else that is involved, everything that would be of benefit to this Nation and to the fisheries community?

Mr. President, I ask unanimous consent to have printed in the Record a fact sheet that deals in greater detail with the impact on negotiations at the Law of the Sea Conference that will take place as a result of the passage of S. 961.

There being no objection, the fact sheet was ordered to be printed in the Record, as follows:

EFFECT OF S. 961 ON THE NEGOTIATIONS

Unilateral action on the part of the United States in proclaiming an exclusive and expansive fisheries zone will destroy the Law of the Sea Conference.

(1) We will legitimize past actions of other countries which have made extravagant claims to ocean space. By doing so, we sanction their claims to exclusive fisheries ownership, thus depriving our own tuna and shrimp industry of traditional fishing areas.

(2) We will unilaterally abrogate and terminate the treaties to which we are party and which are the law of the land. This will include existing bilateral and multilateral agreements, as well as the four Geneva Conventions of 1958 and 1960.

(3) We will fly in the face of the practice of 92 other coastal nations which claim 12 or less miles of fisheries zones. We will be sanctioning the claims of only 11 states—states which traditionally have neither obeyed nor accepted basic international legal principles.

(4) If the United States decides unilaterally what type of fisheries jurisdiction it wants, every other nation in the world will do the same. In fact, members of the Law of the Sea Conference—especially the poor, landlocked nations—may retaliate and jeopardize many critical U.S. security and economic interests. If the U.S. is not bound by its treaty commitments, why should other nations feel bound by law or treaty?

(5) S. 961 calls on other nations to provide traditional access to U.S. distant water fishermen. But how can we, in the U.S. Congress legislate unilaterally the possible future actions of other nations? We are providing an open invitation for all other nations to act in any manner they deem necessary to protect their fisheries or other ocean interests. How can we require them to act reasonably or adhere to good conservation practices and reasonable access? Forty percent of the entire ocean, almost half of the entire globe, will be subject to conflicting and antagonistic claims to ocean space. How can anyone assert that such claims will not torpedo the Law of the Sea Conference?

(6) A prime example of the disastrous results of unilateral action in disregard of treaty agreements is the 1973 unilateral declaration by the United States that the northern lobster was a "creature of the continental shelf" under the terms of the 1958 Convention, which had specifically decided to the contrary. That unilateral act by the United States was the justification recently given by the Bahamian Government when it declared the spiny lobster to be a creature of the shelf, thus depriving Florida of a \$6 million lobster industry, reducing by 10% the total Florida fish industry, and causing the loss of jobs for 5,000 Floridians.

(7) If the United States, by legislative fiat, can declare the lobster a creature of the Continental Shelf, and declare a 200 mile fisheries zone (both contrary to

international law and relevant conventions), why cannot other nations declare shrimp, for example, a creature of the shelf and thus cripple our \$240 million shrimp industry, which fishes within 200 miles of their coasts? One cannot have unilateral cake and eat multilateral cake at the same time. We either honor agreements or we don't. We cannot pick and choose which segments of a multilateral agreement we will honor.

(8) Unilateral action by the United States will constitute a direct challenge to the U.N. and the recent resolution adopted in 1969 urging nations not to proclaim unilateral jurisdiction over ocean space. The United States will bear the brunt of accusations that we destroyed the conference and with it one of the most promising developments in the history of humankind. As a result, the emerging consensus toward a global regime to protect and wisely use the resources of the oceans will be shattered into a myriad of conflicting and antagonistic claims.

The above points are well summed up by Professor R. R. Baxter of Harvard University Law School, the current President of the American Society of International Law:

"If the United States were to move unilaterally, many other countries would feel free—indeed obliged to carve out their own maritime claims so that they would not be left behind. The flood gates would be open to every sort of unilateral claim that the U.S. has been resisting over the last decade—to 200 miles territorial seas, to control and restriction of traffic through straits, to deep-ocean resources, to uneconomic and politically motivated controls over shipping. . . . Unilateral action by the U.S. will be taken as a signal that the U.S. is not really interested in a general multilateral agreement, because the very idea of that sort of agreement is inconsistent with the assertion of unilateral claims by coastal nations. Other nations will rightly conclude that we say one thing and do another. Our actions will speak louder than our words. The frustration and anger of our friends and the joy of those who have been making extravagant unilateral claims all along will be enhanced by the thought the United States which has been preaching multilateralism under a treaty for the past decade, has gone unilateral. Such action would be the destruction of the Law of the Sea Conference."

"If one nation goes unilateral and then every other nation starts going unilateral, then if these unilateral actions don't mesh and if some nations don't recognize it and abrogate their existing agreements, then we are likely to have chaos and then we are likely to be hurt worse than we are now."

HENRY KISSINGER.

"We have contested the right of other states unilaterally to claim 200-mile zones for whatever purpose. If we take such unilateral action, we will be discredited and our word will be questioned on other matters as well. Anyone who objects to unilateral price controls of oil by OPEC should object to unilateral control of fisheries on the high seas which for centuries have been considered the common property of all nations. Unilateral action by the United States of this kind would stimulate and justify like action by other states to the injury, not only of the international processes, but also to our own economic interests which insist on freedom of the seas."

PHILIP JESSUP,
*Former Judge,
International Court of Justice.*

"I do not believe anyone would seriously suggest that unilateral action by a significant number of influential nations will help establish an atmosphere favorable to agreement. To the contrary, it is much more likely that the willingness of these nations to seek their own interests through unilateral action will discourage and dampen the positive attitudes that are part of a favorable negotiating climate. More concretely, these actions may harden previously flexible positions and cast doubt upon the inclination, and even the capacity, of some states to reach necessary compromises."

WILLIAM T. BURKE,
*Professor of Law,
University of Washington.*

"Furthermore, the United States, subsequent to passage of this legislation, would be highly vulnerable to counter-attack by those states who wish to act unilaterally on law of the sea matters in general and abandon the UN negotiations. No one that I know who is concerned with and has participated in international negotiations, believes that the status quo is changed during the course of negotiations. Unilateral action in anticipation of a negotiated agreement would subject the UN Conference to interminable delay and stalling tactics by nations unwilling to come to an effective and equitable agreement. It would be the height of folly for the United States to take action inconsistent with basic principles of international law and the international negotiating process."

COVEY OLIVER,
*Professor of International Law,
University of Pennsylvania.*

"I believe that unilateral extension of jurisdiction by the United States at this time could jeopardize international negotiations because of the complex nature of the negotiations and of the various issues at stake. It will be much more difficult to conduct research, and that research will become significantly more expensive. Yet the results of marine scientific research are increasingly necessary both for managing the harvest of living resources and for protecting the marine environment. Unilateral action by the United States is likely to lead to a universal regime of unilaterally extended zones of differing character, making it even more difficult than now to negotiate a uniform regime in which the international community retains a number of rights, including that of carrying out marine scientific research."

WARREN WOOSTER,
*Dean, School of Marine and Atmos-
pheric Science, University of Miami.*

"One possible approach would have been to allow the development of international law for the oceans, including the law relating to navigation, resource development, fisheries, protection of the marine environment, and scientific research, to proceed through the practice of states, growing into international customary law. A new pattern of order might have emerged late in this century or early in the next through the establishment of an equilibrium between these demands and the resistance of the international community or individual states. But the period of readjustment would have been one characterized by chaos and conflict as states asserted their interests and resisted the claims of others. Open violence could have been expected on numerous occasions, any one of which might turn out to be the spark igniting a global conflict. The other possible strategy—the course adopted by the United States—was to seek the timely establishment of a pattern of order, fairness, and stability in the oceans in the form of a widely accepted treaty arrangement governing the major uses of the oceans. The election of that course reflected a conviction that the United States has in the long run more to gain through the creation of stability and order than through a process of confrontation. H.R. 200 is thus not simply a case of doing now what will ultimately be done anyway under the terms of the treaty. In the words of the popular song of years ago. "It's not what you do but the way that you do it." There is a world of difference between a generally agreed 200-mile economic zone, with jurisdiction over the coastal species, under the terms of a general international agreement, and a unilateral grab of a 200-mile fisheries zone, which would be the signal for other states to lay even more sweeping claims over the 200-mile zone, up to and including a 200-mile territorial sea claim. An impatient claim to 200 miles by the United States would thus, under the most optimistic prediction, gain us protection of certain fisheries one year or so earlier than might otherwise be the case. At the worst, it could be the downfall of the Law of the Sea Conference and the destruction of any immediate prospect of a treaty. The price would be the exclusion of our merchant vessels and Navy from large areas of the ocean and the end of certain of our distant-water fisheries—all for having one or two years earlier what we are going to get anyway. That, in my submission, would be the height of folly. [It] 961 is fundamentally incompatible with the realization of a sound, workable, and lasting legal regime for the oceans."

R. R. BAXTER,
*President of American Society
of International Law.*

"As the world's leading maritime power, the United States has a very great interest both in establishing an agreed international order for the oceans, and in retaining, as far as possible, freedom of action of all nations throughout the ocean realm. On the other hand, it would be much against our interest for different coastal states each to declare its own version of sovereignty, or jurisdiction short of sovereignty, over an area which might extend several hundred miles off its coast."

RICHARD ROVERE,
Director,
Center for Population Studies, Harvard.

"I believe that enactment of such legislation at the present time would seriously jeopardize the chances of our coming out of the current Third United Nations Law of the Sea Conference with the type of treaty which we want and need. Having in mind the difficulties of reaching world-wide consensus on the many important law-of-the-sea issues involved in the current efforts to reach international agreement and frame a 'constitution' for the oceans, I believe that the proposed unilateral action by the United States would make it very much more difficult, if not impossible, for the Conference to produce such a treaty which meets our needs."

WILLIAM BISHOP,
Professor of International Law,
Michigan University.

"At the close of the Geneva session of the Law of the Sea Conference last spring, Ambassador Amerasinghe, President of * * * refrain from taking unilateral action in the wake of the Geneva meeting. It would be ironical if the United States, which for so long has supported the principles of international cooperation, should be among the first countries to respond to Conference President's plea by adopting a contrary course of action."

LEWIS ALEXANDER,
Director, Law of the Sea Institute,
University of Rhode Island.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I wish to make another point that comes to mind, and I do not think I made it clear when I spoke earlier. This is in connection with a point made by Senator STEVENS as to what we are setting in motion here by this delay of enforcement. **[Sec. 312]** Many of our fisheries treaties contain a paragraph that says that if you want to change the treaty or if you want to end the treaty, you give a year's notice; and at the end of that year, the treaty ends.

So, for all intents and purposes, if that goes into the final law, technically, this law will not break the treaties but will say that our State Department is to go out and negotiate treaties and adhere to our law, and the State Department is locked in as to what that will be. So if they do not negotiate that, those treaties are broken.

In point of fact, we lay down the parameters, and if the foreigners do not agree to this law which we pass here, the treaty ends, which means that we break the treaties or we dissolve the treaties.

So, after a year, when his law comes into force, in January, [Sec. 312], all the fishery treaties we have that are at variance with what this legislation does will be terminated, and that will be the end of it.

As I stated before, it is "Katy, bar the door." We will have anarchy of the seas with respect to fisheries.

Mr. President, I yield the floor so that the Senator from Indiana may be recognized.

The Senate continued with the consideration of the bill (S. 961) to extend, pending international agreements, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

Mr. STEVENS. Mr. President, I have an unprinted amendment at the desk dealing with page 29, the findings that are the declaration of policy for this bill.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 29, after line 18, insert the following new subsection:

(8) A national program for the development of a United States fishery for bottomfish off Alaska and our other States is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby. [Sec. 2(a) (7)]

Mr. STEVENS. Mr. President, in the findings section of this bill, which is the preamble to the action that we propose to take in declaring a 200-mile limit and establishing a regional fisheries council, there is no direct mention of the lack of a bottom fishery in many areas of the country, particularly off Alaska, where we have half the coastline of the United States and, as I said, almost 70 percent of the Continental Shelf.

It is the desire of our fishermen to see to it that in our declaration of policy the Congress takes notice of the lack of this U.S. bottom fishery and makes a finding that the development of such a bottom fishery would be of benefit to our Nation.

I have discussed this with the chairman of our committee, my good friend from Washington, and I believe it would be acceptable to him to add this as one of the basic findings of the Congress as we pass this legislation.

If there is no comment concerning it, I would move adoption of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. Mr. President, I ask unanimous consent prior to passage of this amendment that it be treated as original text.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I have a second amendment that deals with the policy provisions of the purposes provision of this bill on page 30.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows :

On page 30, line 9, delete the period and insert the following : "and to encourage the development of a domestic capability to harvest and process fishery resources which are currently underutilized or unutilized by U.S. fishermen, particularly the bottom fishery of the North Pacific and Bering Sea and other bottom fishery potential off our coasts." [Sec. 2 (b) (6)]

Mr. STEVENS. Mr. President, this also is a clarification to assure that one of the purposes of the Congress in passing this act is to carry out the action that would be necessary to assure that this finding we have just made and inserted in the bill is one of the objectives of the regional councils and our National Government as we try to rebuild these stocks and assure the full potential of our Nation's fishery resources.

We ought to make certain that one of the goals is to establish the capability to harvest these fish that comprise such an enormous potential for us in terms of food value and employment and income and reduce our current deficit and balance of payments in the fisheries areas.

This is another addition that has been urged by the fishermen of Alaska, and I think it is a good addition to the bill. I am hopeful that the Senator from Washington will agree.

Mr. MAGNUSON. Yes, Mr. President. I move the adoption of this amendment.

Mr. GRAVEL. Mr. President, I make the same unanimous-consent request, that it be treated as original text.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. I move the adoption of the amendment with the provision.

The PRESIDING OFFICER. It is considered as original text.

Mr. MAGNUSON. Yes.

We move the adoption of the amendment on that basis.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I state that we are waiting for a clarification of a substitute that we have prepared to the amendment offered by the Senators from Texas. If my colleague from Alaska has any amendments, we would announce that that is the last amendment I know of.

Does the Senator from Washington have any others?

Mr. MAGNUSON. No.

Mr. STEVENS. Mr. President, we have one amendment that the committee has notice of. We have notice of no other amendments that are involved and unless my colleague has some to offer, we are prepared to seek a time limit on further consideration of this bill and we will be prepared to seek a time limit on the Bentsen amendment, whatever is in order at this time, as far as my colleague from Alaska is concerned.

Mr. GRAVEL. I have no trouble with respect to this. As my colleague knows, I have an amendment, No. 1327, which I introduced yesterday, now printed, that deals with the interests of Alaska. I believe he and his staff were perusing that amendment to make a decision on whether or not they wanted to join me as a result of the colloquy we had yesterday or the day before yesterday with respect to jurisdiction from shore-

line to the 200-mile area, and whether or not the State of Alaska could be given primary responsibility for developing the plan.

I think the management section of this bill is a good section of the bill and I support it. I applaud the committee. I think setting up the regional councils is very fine.

The only problem I have is that we in Alaska have been operating as a region. We have done a good job as a region, as one area. Under State management we did not have to have people from other areas tell us how to do it. We did a better job than the Federal Government.

I do not understand why we cannot secure this kind of amendment that would just continue the status quo for Alaska.

Mr. STEVENS. I might say that we discussed that.

I, too, have an amendment, No. 1302, on the same subject. The Senator from Washington has a substitute for my amendment, and we have the other Senator from Alaska's amendment.

It has been suggested that we could consider my amendment, No. 1302, adopt it for the purpose of original text, have the Senator from Washington's amendment then come up, and the Senator's amendment be an amendment to his amendment, cover all three, and have a vote on the Senator's amendment.

I know of no other way to get to it directly.

Mr. GRAVEL. I have no pride of authorship. I will cosponsor the Senator from Alaska's amendment if I thought we could win the issue.

I have no pride of authorship. This does not have to be the Gravel amendment that passes. It can be the Stevens amendment that becomes the one to give the State the primary authority.

Mr. STEVENS. I am prepared to agree to the modification of the Senator from Washington to my amendment.

Mr. GRAVEL. If I could see the modification, I probably would cosponsor it if it does exactly what we are trying to do. I would be happy to.

I have no problem on the time element on this. I am trying to get this solution effected and if it can be done under the auspices of the Senator, or the Senator from Washington, I applaud that.

Maybe the Senator from Washington could make me privy to his amendment and I could see if it does what I hope my amendment does. If not, I will support the amendment of the Senator from Alaska and try to get it past this body, if they do not think my amendment will sell.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

Mr. GRAVEL. I would like some indication from the managers of this bill, both the senior Senator from Alaska and the Senator from Washington. If they want to fight me on this amendment or if they have a better one, fine. All I want to do is effect this principle. I do not ask for a rollecall vote or a time element. I will go with whatever the Senators want to do. My question is: Is this concept close to being acceptable by the managers of the bill or is it something that will be opposed? If so, we can put in some time element.

Mr. STEVENS. I might say the Senator from Washington has taken the position that he will not agree to that amendment. He does have a substitute for the amendment which I think will go just so far.

Mr. President, may I suggest the absence of a quorum?

Mr. MAGNUSON. Just a moment. I was about ready to tell the junior Senator from Alaska that I am opposed to his amendment. I said so yesterday and I say so again. I have a substitute, which can be acceptable, as the senior Senator from Alaska suggested, but which does not do what the Senator's amendment does. It is quite different. This may be something that in Alaska they might take a look at, but no other State in the Union wants this. We cannot pass this bill just for Alaska. No other State wants this. I have never heard of any State in the Union—

Mr. GRAVEL. Do they not want it for themselves or not want it for us in Alaska?

Mr. MAGNUSON. I do not think we can pass a bill that has something different from other States. Anyway, I oppose the amendment and I shall give the reasons why.

Mr. GRAVEL. I will be prepared to enter into a time agreement on my amendment and vote on it at a time certain. We can have ample time to discuss it. I see nothing wrong with it. I do not believe it hurts the fisheries of the west coast or the gulf coast. It says we have done a good job and says we should have the primary responsibility for continuing to do a good job.

Let me ask the Senator from Washington, does he oppose the amendment of the senior Senator from Alaska?

Mr. MAGNUSON. I oppose his amendment, and I have a substitute which I shall introduce at the proper time.

Mr. GRAVEL. Let me say I will reserve any time element until I can see the way this thing will work itself out. I will not lock myself into a time agreement if we are going to play our cards that close to the vest. I am trying to be very helpful.

Mr. MAGNUSON. If the Senator has an amendment, let him discuss it and I will oppose it.

Mr. GRAVEL. It is right here. We will discuss it and vote on it.

Mr. MAGNUSON. I hope we will not have too much discussion, because we have gone in and out of this matter now for 3 days.

Mr. GRAVEL. Am I imposing upon the good will of my good friend from the State of Washington in asking him if he could make me privy to his substitute amendment to the Stevens amendment so I might enjoy that wisdom and maybe find it in my heart to support him or oppose him vehemently?

Mr. MAGNUSON. I would hope that would be true, that the Senator would join with me in the substitute. I will be glad to show it up to the Senator. It is being typed up right now. As a matter of fact, if we go on much longer today, I will lay it on the desk and have it printed so that tomorrow, when I hope we will have some votes on the two or three things we have left, the Senator could take a look at it.

Mr. GRAVEL. I thank my colleague for his courtesy.

Mr. MAGNUSON. I might say it merely rejects the idea of any State having jurisdiction beyond their State limits and out to 200 miles.

Mr. GRAVEL. We are not seeking jurisdiction. I think my colleague has misread my amendment.

Mr. MAGNUSON. Not so.

Mr. GRAVEL. All we are saying is we can manage it for the Federal Government. We can save them a lot of effort.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Stevens). The clerk will call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Helms). Without objection, it is so ordered.

JANUARY 20, 1976

The Senate continued with the consideration of the bill (S. 961) to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

AMENDMENT NO. 900

Mr. STEVENS. Mr. President, the Senator from Texas (Mr. Bentsen) had an amendment that was referred to the committee, amendment No. 900. Is it in order for me to call up that amendment at this time?

The PRESIDING OFFICER. It is in order.

Mr. STEVENS. I ask that the amendment be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens), in behalf of the Senator from Texas (Mr. Bentsen), proposes an amendment numbered 900.

Mr. Bentsen's amendment (No. 900) is as follows:

At the end of the bill, add the following new section:

NEGOTIATIONS TO PRESERVE CERTAIN UNITED STATES FOREIGN FISHING RIGHTS

【Sec. 201(f)】

SEC. —. (a) COMMENCEMENT OF NEGOTIATIONS.—Within ninety days after the date of enactment of this Act, the Secretary of State shall commence negotiations with each foreign nation, off whose coast United States vessels are engaged in fishing for specific stocks of fish, for the purpose of entering into an international fishery agreement under which such foreign nation will grant to United States vessels adequate and equitable access, consistent with reasonable management and conservation practices, to such fish stocks within two hundred nautical miles off the coast of such nation.

【Sec. 205(a) ; 205(b)】

(b) ACTION OF FOREIGN NATION REFUSES TO NEGOTIATE OR VIOLATES TREATY.—
(1) If the Secretary of State determines that—

(A) any foreign nation refuses to commence negotiations, or fails to negotiate in good faith, with the United States in order to achieve the purpose of subsection (a) ; or

(B) although an international fishery agreement which achieves the purpose of subsection (a) is in force and effect, the foreign nation is not complying with its obligations under the agreement,

he shall certify that determination to the Secretary of the Treasury. Upon receipt of any such certification, the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the customs territory of the United States of any seafood and seafood products of that foreign nation.

(2) For purposes of this subsection, any seizure of a United States vessel which is reimbursable under section 3 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1972) that is made by any foreign nation off whose coast United States vessels are engaged in fishing for specific stocks of fish shall—

(A) if no international fisheries agreement achieving the purpose of subsection (a) is in force and effect, be deemed to be a refusal by that nation to commence negotiations, or failure by that nation to negotiate in good faith, within the meaning of paragraph (1) (A) of this subsection, or

(B) if such an agreement is in force and effect, be deemed to be noncompliance by that nation with its obligations under that agreement within the meaning of paragraph (1) (B) of this subsection, and the Secretary of State shall immediately make the appropriate certification to the Secretary of the Treasury required by paragraph (1) of this subsection.

[Sec. 205(c)]

(c) DURATION OF IMPORT PROHIBITION.—Any import prohibition which is imposed pursuant to subsection (b) shall remain in effect—

(1) if the prohibition was imposed by reason of subsection (b) (1), until such time as the Secretary of State certifies to the Secretary of the Treasury that an international fisheries agreement which achieves the purposes of subsection (a) has entered into force and effect between the United States and that foreign nation; or

(2) if the prohibition was imposed by reason of subsection (b) (2), until such time as the Secretary of State certifies to the Secretary of the Treasury that the foreign nation is complying with its obligations under the international fishery agreement.

[Sec. 205(d)]

(d) DEFINITION.—For purposes of this section, the term "seafood product" means any fish which is the product of a foreign nation, and any article which is the product of such nation and which is composed in whole or part of any fish which is the product of such nation; but excludes during the period of any import prohibition imposed pursuant to subsection (b) any such fish or article if the fish or fish constituting the article are harvested by United States vessels, irrespective of point of harvesting or offloading.

AMENDMENT NO. 1329

Mr. STEVENS. Mr. President, I send to the desk a substitute for that amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

In lieu of the language proposed to be inserted by the Senator from Texas (Mr. Bentsen) insert the following:

[Sec. 205]

"(e) IMPORT PROHIBITION.—(1) If after a reasonable period of time the Secretary of State is unable to achieve an agreement affording vessels of the United States an appropriate portion of fish stocks found in areas subject to the fishery management jurisdiction of any foreign nation, in accordance with traditional fishing practices of such vessels and under conditions equal to those established under section 102 of this Act, and determines that such nation—

(A) has refused to commence negotiations;

(B) has failed to negotiate in good faith; or

(C) is not complying with its obligations under any existing agreement concerning fishing by United States vessels for fish stocks subject to such nation's fishery management jurisdiction.

he shall certify such determination to the Secretary of the Treasury.

(2) If any United States vessel, while fishing in waters beyond 12 nautical miles from the baseline from which a foreign nation's territorial sea is measured, is seized by such nation—

(A) as a consequence of a claim of jurisdiction which is not recognized by the United States; or

(B) such seizure is in violation of an existing international agreement and is not permitted by an agreement between the United States and such nation,

the Secretary of State shall certify such action to the Secretary of the Treasury.

(3) Upon receipt of any such certification from the Secretary of State under paragraph (1) or (2) of this subsection, the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the customs territory of the United States of any fish or fish products from the fishery involved.

Mr. STEVENS. Mr. President, the Senator from Texas will be here to address his basic amendment.

Let me comment on the substitute. The substitute tries to work out, for the two basic long-distance fisheries that the United States has, a concept of equity with regard to those nations that have gone further than we go in this bill. Many such nations have claimed territorial seas and have established a principle of discrimination against U.S. fishermen abroad.

We have tried to assure these U.S. long-distance fishing fleets for some time that we recognize their problem and we believe in equity between the treatment that we are proposing for foreign fishing fleets off our shores and the treatment that our people should get off of foreign shores.

This substitute [Sec. 205] is an attempt to devise a scheme to meet that problem by requiring the same type of treatment in regard to foreign actions that concern our fishing fleets. We cannot dominate those nations. We are requiring in a sense, that the bill provides a mechanism for enforcement in that, if a foreign nation is found to in fact discriminate against our fishing fleets in comparison to the policies that are expressed in this legislation, the imports from the fishery involved would be embargoed. So, it is a mechanism to protect our distant-water fishing fleets and to assure them equal treatment.

It is equal to the type of treatment that we have stated in this bill we are willing to give to foreign fishing fleets. As such it represents, I think, a good policy position of the United States.

It does involve the problem of findings relating to the treatment of our foreign fishing fleets. I might say that it does, in fact, represent a recognition of the problem of distant-water fishing fleets that the Law of the Sea Conference has not addressed; therefore, I really think that it provides the kind of framework for international action that would be worthwhile.

It is to me, although others might express it a different way, a principle of reciprocity but not reciprocity of one nation to the other—reciprocity in the sense that the foreign nations involved here will not have this embargo placed against their fisheries if they accord our fishing vessels the same type of treatment that we are prepared to accord the fishing vessels of other nations. But we must keep in mind that the South American fleets do not fish off our shores and we do not fish off the shores of Russia. We do, however, fish off the shores of some South American nations. It is not really reciprocity on a bilateral or multilateral basis. It is reciprocity in a statement of principle rather than anything else. [Secs. 201(f); 205]

I think the substitute is a fair one, and I am hopeful that the Senator from Texas will state his feelings.

Mr. MAGNUSON. It follows the concept of the Fisherman Protective Act which is on the books.

Mr. STEVENS. Yes, and in a much better way, I might say, than the House bill because the House bill takes foreign fishing fines and puts them into the Fisherman Protection Act. [Sec. 403] This provides a mechanism for enforcement in terms of an embargo that would be much more effective in terms of protecting the fishery resources.

Mr. GRAVEL. Mr. President, speaking to his amendment, I know the purpose of the intent of what the Senator from Texas tried to accomplish, but I think he has been placed into a position as a result of this legislation of doing just this: What this is the first shot in an international trade war.

The senior Senator from Alaska is quite correct. The fishermen of Brazil do not come to the United States and fish. This is primarily to safeguard the Texas shrimp fleets that go off the coast of Brazil. Now Brazil is not very enthusiastic for the law of the sea. Brazil is one of the nations that unilaterally has claimed 200 miles and, along with Ecuador, it is one that has harassed our distant-water fisheries.

So what this amendment is is to try to find a way to punish Brazil, if they want to send shrimp to this State. In other words, the language here is that the United States will prohibit the importation of any fish or fish products. That is not going to be much punishment for Ecuador, it is not going to be much punishment for Peru, and it is not going to be much punishment for Brazil. So again, we have a situation where we are starting a trade war. We are going to punish them, and they are really going to be doing exactly what we are doing.

The Senator from Washington stated yesterday that he does not want any foreign fishing people within the 200-mile limit and, of course, that is the view of the American fishing industry. They do not want any foreign fishing within 200 miles. So, these nations are going to do exactly what we are doing.

We say, "Well, we are going to try and work out some reciprocity." Our problem is with the Soviet Union and with Japan with whom we are negotiating. This is with South America and they are obviously going to do exactly what our fishermen will do and they probably will not be as responsible or sophisticated as us. They will do it crudely. They will tell these Texas shrimpers that they cannot fish. So that is great.

What we are going to do is we are going to tell the Secretary to punish these countries, and we cannot reach them because they can sell their shrimp in Europe. They do not have to sell to us. They can move to those markets. [Sec. 205]

So what have we done? Technically, we have tried to punish. But who really were punished? The people who were punished were the shrimpers of Texas. That is who were punished.

So this is not an answer to the problem, and it is going to be a very, very mild palliative to protect those interests of the fishermen of Texas.

I think they will see that, and there is only one way to solve this problem, and that is not to let the 200-mile bill pass and not to try and tack this on to begin a trade war.

We have more difficulties than we can handle in a trade area. We should not now open this up. This is a prediction I made: That we may talk about this bill as only a fisheries bill, but this is a trade matter. When we are talking about laying down a prohibition of importation because of other acts, we are in a trade war, an unadulterated trade war, and that is what will be the result of this legislation. This legislation has not even passed, and we now have to treat an amendment that will set the war in motion. That is only part of the policy that will be visited upon us if we let this legislation pass.

Let me state again, because we have an additional Member of this body whose views I respect in the Chamber now, my position so he will understand it very clearly. I am for the section of the bill that deals with management. [Secs. 301; 302; 303; 304; 305] I wish a small correction. I may not be able to secure it. But I am for that section of the bill. The only part of the bill I wish to see corrected is to remove from the bill a unilateral declaration that we take 200 miles. [Sec. 101] I am prepared to submit something in the legislation that will protect our fish stocks but I will not be prepared to vote as one Member of this body for legislation that will unilaterally take 200 miles and place in motion a trade war.

That is what this amendment will do, well-intentioned though it may be. It is the first shot in the international trade war and will regress back from the high threshold we have now attained with the trade bill we passed 2 years ago to try and lower barriers.

This Senate went on record to try and lower trade barriers, and that was merely an emulation of an initiative that was taken in the early sixties which they called the Kennedy round of trade negotiations, which is the touchstone of a great maturity that has come over the world in trade matters to try and lower the barriers. Now we are setting in motion the vehicle to raise barriers. [Sec. 205]

This amendment to this bill is a first shot in raising these barriers. I think that is a great tragedy. I hope the Members will sleep on this amendment and that if we vote on it tomorrow, they will recognize how serious this is and why it is motivated.

I insist on a rollcall vote on this amendment. I have not talked to Senator Bentsen about this amendment. I would not ask for the yeas and nays, as a courtesy accommodation to the Senator from Texas. I do not want to make that request until he arrives.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—I understand that this would be agreeable with the distinguished Senator from Texas (Mr. Bentsen)—that the vote on the Bentsen amendment occur tomorrow, immediately after the Senate returns to legislative session, following the vote on the treaties.

The PRESIDING OFFICER. The Stevens amendment is a substitute for the Bentsen amendment.

MR. ROBERT C. BYRD. I was not aware of that. I withdraw my request, Mr. President.

The Senate continued with the consideration of the bill (S. 961) to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

TIME LIMITATION AGREEMENT

MR. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, immediately following the return to legislative session on tomorrow, after the vote on the treaties, the Senate resume consideration of the unfinished business; that there be a time limitation of 30 minutes on the Stevens amendment to the Bentsen amendment; and that the time be equally divided between Mr. Bentsen and Mr. Gravel.

THE PRESIDING OFFICER. Without objection, it is so ordered.

MR. ROBERT C. BYRD. I ask unanimous consent that the vote then occur upon the expiration of that time.

MR. MAGNUSON. Mr. President, reserving the right to object, the Senator from Alaska has an amendment which I am immediately going to present a substitute for. Would that be included?

MR. STEVENS. I might say, if the Senator will yield to me, that I am prepared to lay down my amendment 1302. I understand that the Senator has a substitute to that. I will be agreeable to having the same kind of agreement. But I hope we will allow the assistant majority leader to get this unanimous consent on the Bentsen amendment. It is our substitute to the Bentsen amendment.

MR. MAGNUSON. Oh, yes.

THE PRESIDING OFFICER. Is there objection?

MR. MAGNUSON. So that it is understood, I think the Senator from Alaska is soon going to present his amendment 1302 and lay it down tonight. I have a substitute for that amendment which I shall lay down. The two are to be considered together. The junior Senator from Alaska may have a substitute for both, I do not know. I hope the time agreement will specify both.

MR. STEVENS. Is there an objection to this now?

THE PRESIDING OFFICER. The Chair will observe that the substitute amendment to the Bentsen amendment is now the pending business. Is that correct?

MR. STEVENS. Right.

MR. GRAVEL. Reserving the right to object.

THE PRESIDING OFFICER. As long as that is pending—

MR. GRAVEL. Reserving the right to object, the confusion is that the Bentsen amendment deals with shrimp. The Stevens amendment, as I

understand it, unless he has an amendment to the Bentsen amendment dealing with shrimp——

Mr. STEVENS. Yes.

Mr. GRAVEL. It deals with shrimp?

Mr. STEVENS. Yes. It is my substitute to the Bentsen amendment that we are seeking the time agreement on now, and the Senator from Texas will have the time, he will have the opposition, as I understand it.

Mr. GRAVEL. That is right.

Mr. STEVENS. That is the request of the leader.

Mr. GRAVEL. It has nothing to do with the amendment of the Senator from Washington, which is a substitute to the amendment of the Senator from Alaska dealing with the Alaska matter.

Mr. STEVENS. That is right. If we get this agreement, I will call up the other amendment.

Mr. MAGNUSON. Let us get a time limitation on that first.

Mr. STEVENS. I have to call it up.

Mr. ROBERT C. BYRD. Let us see if we understand one another here. The agreement here is that the one-half hour of debate will ensue following the return to legislative session after the vote on the treaty tomorrow, and the one-half hour of debate is on the amendment by Mr. Stevens to the amendment by Mr. Bentsen, and that time will be divided equally between Mr. Bentsen and Mr. Gravel.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. And the vote on the Stevens amendment will occur at the conclusion of the 30 minutes or at such time as the time is yielded back.

The PRESIDING OFFICER. That is understood as part of the agreement.

Mr. GRIFFIN. It is understood following the vote on the Stevens amendment to the Bentsen amendment that there would immediately follow a vote on the Bentsen amendment as amended or not amended.

Mr. ROBERT C. BYRD. That has not been agreed to.

Mr. GRIFFIN. I see.

Mr. ROBERT C. BYRD. I assume if the Stevens amendment is adopted there would be no objection to having a vote on the Bentsen amendment as amended by the Stevens amendment. But if the Stevens amendment is not agreed to, I do not know what the Senators would wish under those circumstances.

Mr. GRAVEL. The problem is that I do not know what the Stevens amendment to the Bentsen amendment is. [Sec. 205]

Mr. STEVENS. I explained it previously. It is with respect to barring our vessels and the distant-water fishing fleets. It is my substitute for the Bentsen amendment No. 900, which is printed in the Record and, if it is not, I hope it will be printed.

Now, Mr. President, if we have got an agreement on that—do we have an agreement on that?

The PRESIDING OFFICER. Yes, we do.

AMENDMENT NO. 1302

Mr. STEVENS. I ask unanimous consent that it be in order that we set that aside then until the time comes for the debate as specified by the majority whip's request and that I now be permitted to call up my amendment No. 1302.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens) proposes amendment 1302: [Sec. 306]
On page 54, line 4, add:

(3) Those fisheries capable of being managed as a unit, which reside principally within the waters of a single State or the fisheries conservation zone seaward of the single State, shall be managed by that State, providing the management is consistent with the national standards. Appeals for relief from State fish management decisions shall be made directly to the Fisheries Management Review Board, created by this Act.

Mr. MAGNUSON. Mr. President, I send to the desk a substitute for amendment 1302.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. Magnuson) proposes a substitute for amendment 1302: [Sec. 306]

In lieu of the language proposed to be inserted the following:

"(3) To the extent practicable and consistent with the national standards, the Councils shall incorporate, in its management plans and recommended regulations, the relevant fishery management measures of the coastal State or States nearest the fishery involved.

"(4) To the extent practicable fishery management regulations shall be put into effect in a manner which does not disrupt the regular fishing season for any fishery."

Mr. STEVENS. Mr. President, I might state I am prepared to accept the substitute of the Senator from Washington for my amendment and, as such, it may well be that my colleague might want the opposition, but if there is to be a vote I would like to have the vote occur following the vote on the Bentsen amendment tomorrow.

Mr. GRAVEL. If this amendment were treated as original text, since the Senator chooses not to oppose it, if it were treated as original text, then I later on could still come at it, and we could pass it right now.

Mr. MAGNUSON. All right, let us pass it right now. I ask unanimous consent that my substitute be treated as original text.

The PRESIDING OFFICER [Mr. Glenn]. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President—

Mr. STEVENS. Let us adopt the amendment.

Mr. MAGNUSON. Mr. President, I move the adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska, as amended.

Mr. ROBERT C. BYRD. I do not believe the Senate is ready to vote on that amendment. Is the Senator ready to vote on that amendment?

Mr. STEVENS. Yes.

Mr. ROBERT C. BYRD. I had understood the Senator to say he would like to have that come after the vote on the Bentsen amendment.

Mr. STEVENS. No; if it was opposed.

Mr. GRAVEL. As I understand—I have a parliamentary inquiry so that I may understand it correctly—what we have just done here is we have passed this amendment but because it is original text I can come in at a later time and offer an amendment and work my will or the body will work its will.

Mr. STEVENS. Yes.

The PRESIDING OFFICER. The Senator is correct.

Mr. MAGNUSON. No one wants to shut the Senator off.

Mr. GRAVEL. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended.

The amendment, as amended, was agreed to.

Mr. GRAVEL. In the voice vote I want the record to show that I am recorded as voting "no."

The PRESIDING OFFICER. The record will so show.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, may I inquire if it would be in order at this time to set some time limit for the introduction of amendments to this bill so that we might have them printed and to inquire if there are to be any other amendments.

The PRESIDING OFFICER. It would take unanimous consent.

Mr. STEVENS. I understand that. I want to know if it would be objected to. I would like to set a time frame of no later than the close of business tomorrow to have amendments to this bill on the desk.

Mr. GRAVEL. I am in the process of preparing an amendment. It is a very complicated amendment, and I can assure the Senator if I were able to have it right here now for introduction and discussion, I would have it here right now for introduction, but I think the Senator can understand the difficulties in research I am having, and I hope to have it in hand tomorrow and I will then turn it in and we would work from that amendment. I think it might be an amendment that the proponents of the bill might find interesting and, possibly, within their hearts to

support. It could be the compromise for the whole issue is what I am trying to say.

Mr. STEVENS. I will renew the request tomorrow if it is in order.

Mr. GRAVEL. I do not object. He is withdrawing his request.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, the passage of S. 961 is vital in order to insure the prompt and effective restoration of the many seriously depleted stocks of fish off our shores. [Sec. 2]

As one of the first and most earnest advocates of a Law of the Sea Conference, I have long supported a multilateral approach to expanding coastal state jurisdiction over fisheries and have argued that the United States should not take unilateral action except as a last resort. My advocacy of S. 961 is in no way incompatible with this position.

Having been an adviser at all of the sessions of the Law of the Sea Conference, it has become clear to me that lengthy negotiations will necessarily be required if a sound treaty dealing with all of the issues related to the oceans, of which fisheries is only one, is to emerge from the Conference.

Remarkable progress has been made at the Conference so far, and I am particularly gratified that a substantial consensus has been achieved for the establishment of a 200-mile economic zone providing, among other things, for coastal state jurisdiction over fishing. Serious disagreements exist, however, over other issues, notably over deep sea mining. In addition, the Conference has been suffused with divisive Third World rhetoric concerning the so-called "new economic order." These developments make it highly unlikely that a comprehensive treaty can be negotiated at an early date. There is little hope, therefore, that the present consensus in favor of a 200-mile economic zone can be translated into early action to save our fish.

In light of this situation, it would be folly for the United States to ignore its vital interests by permitting the further depletion of its coastal fishery resources. In New England, which as a Senator from Rhode Island, is the area of principal concern to me, the problem is particularly acute. Since the early 1960's foreign fishing has shrunk the overall fish biomass in the Northwest Atlantic by 50 percent. According to the National Marine Fisheries Service, Atlantic haddock, herring, menhaden, yellowtail flounder, and halibut have been severely depleted, some to the point where they may never recover.

Despite these developments, opponents of S. 961 have often commented on the "favorable" situation which allegedly prevails in the

fisheries off the coast of New England. They assert that a "break-through" occurred in September 1975 when the total allowable catch for 1976 under the International Convention for the North Atlantic Fisheries—ICNAF—in the areas corresponding to a 200-mile fishing zone off the New England coast was reduced while the quota for the United States under the reduced total was increased.

That was a significant development, but the opponents of S. 961 overlook the fact that the reduction of the overall quota was substantially less than the one advocated by the United States. Furthermore, the many serious violations of the ICNAF agreement call into question the value of the quotas established. Let me cite some examples of recent violations based on information developed by the National Marine Fisheries Service:

In 1974 U.S. agents boarded 11 of 14 West German trawlers in one ICNAF area and discovered that the German herring quota for that area had been exceeded by 40 percent.

In 1974 U.S. agents boarded six of eight United Kingdom trawlers on Georges Bank and discovered that the vessels had been fishing for haddock in spite of the fact that ICNAF granted no haddock quotas for 1974 other than for allowable incidental catch. Nets with under-size mesh were also being used by the vessels.

In 1974, the United States accused Spain of exceeding its cod quota on Georges Bank and for taking haddock contrary to ICNAF regulations.

From January to April of 1975, boardings and aerial surveillance of Soviet mackerel trawlers off southern New England indicated that the U.S.S.R. was exceeding its 1975 mackerel quota by an estimated 70 percent.

It has also been asserted by opponents of S. 961 that the Law of the Sea Conference would be jeopardized if the United States unilaterally extended its jurisdiction over fisheries. As I stated earlier, there is already substantial agreement at the conference for the kind of national jurisdiction embodied in S. 961 [Sec. 101]. Unilateral action by the United States to advance the application of that consensus is unlikely, therefore, to result in serious opposition, much less active challenges, to this legislation. Moreover, I believe that the likelihood of unilateral action by the United States has already been anticipated by other nations and that those nations have already adjusted their policies to the new situation. Other participants in the Law of the Sea Conference should also be encouraged by the fact that S. 961 is interim legislation which will be superseded by the fisheries provisions eventually included in a Law of the Sea Treaty. [Sec. 401]

Finally, in view of the fact that S. 961 does not extend the territorial sea of the United States, [Sec. 2(c) (1)] and is, therefore, consonant with the separation of the fisheries and territorial sea issues at the Law of the Sea Conference, I see no reason to believe that enactment of S. 961 would encourage other nations to make more far-reaching claims. If they do, it can only be because they were planning such action anyway and have not been negotiating honestly at the Conference.

In view of these considerations, Mr. President, I strongly urge the Senate to enact S. 961.

Mr. METCALF. Mr. President, the January 9, 1976, issue of the authoritative *Ocean Science News*, published in Washington, D.C., includes some information on the United Nations Law of the Sea Treaty which should be brought to my colleagues' attention as we continue this discussion of S. 961. I ask unanimous consent that this article be printed at this point in the *RECORD*.

There being no objection, the article was ordered to be printed in the *RECORD*, as follows:

UNITED NATIONS LAW OF THE SEA TREATY

Talk that a Law of the Sea Treaty may come in three years—If there's none this year—was heavily discounted by a U.S. State Dept. spokesman, "speaking personally,"—not for the department, he emphasized—earlier this week (7 Jan.) in St. Augustine, Fla., at a meeting of State's Ocean Affairs Advisory Committee. He offered this prediction of things to come at the U.N. Law of the Sea Conference: If there is no LOS treaty in 1976, allowing for a short session early in 1977 to wrap it up, then LOSC will either (a) "go away" or (b) "drag on."

What won't happen, said Bernard Oxman, assistant legal advisor for ocean affairs, is an agreement, say, in a relatively short span of three years, a prediction that has been advanced by various observers claiming to be close to what's going on in the LOSC negotiations. Oxman's point: With no treaty upcoming from the renewed efforts in New York City in March, the "intensity" of negotiations will "wind down" and the LOSC will either simply end without any result, or continue in such a desultory fashion as to produce nothing for seven or eight years. The key to LOSC progress, Oxman suggested, is a change in the attitude of the developing countries, and the divisive issue remains deep-sea mining.

On that subject Oxman also offered some insights: The split in the U.N. over deep ocean mining is not a dichotomy but a three-way split among (a) the consumers of metals who want increased supplies at the lowest possible prices; (b) the land-based producers who fear new competition from ocean mining and want it restricted; and (c) the ideologists, a "large body" of developing countries, who really believe in the "common heritage" principle as a new experience, "radically different from the past."

The chances of producing a law of the sea treaty, believes Oxman, remain in the hands of those developing countries which are prepared to concede some measure of protection to the countries willing and able to make an investment in ocean mining—i.e., the U.S., Japan, Germany, and France. At the moment, says Oxman, the ideologists have "co-opted" the Group of 77 (the main body of developing nations in the U.N.), so the course of the LOSC in the future is to be determined by whether or not the ideologists split from their present allegiances and go over to either the metals consumers or the land-based producers.

State's Ocean Affairs Advisory Committee met this week, noted Rozanne Ridgway, deputy assistant secretary of State for oceans and fisheries affairs, at a "point of pause" following the promulgation of President Ford's so-called "new initiatives" in fisheries negotiations, but before the U.N. LOSC reconvenes. The State Department, she said, was willing to hear industry's point of view and take it seriously. What she heard, not to her surprise, were the suspicions of industry representatives on the advisory committee that in negotiations at the U.N. the U.S. would at some point "trade away" something (tuna, transit through straits, scientific research or whatever) for an LOS treaty—any treaty. Members of the negotiating team present in St. Augustine denied that the industry contention has any basis in reality.

The crunch point for the U.S. negotiating team this spring may come on the seabed issue in Committee One of LOSC over the question of a moratorium on deep ocean mining, indicated Oxman. That is, if a treaty were possible only if the U.S. would agree to a moratorium, would the U.S. in the end go along with the developing countries? Or, if a treaty were possible only if the developing nations would allow the U.S. mining consortia to begin their work immediately, would the ideologists at the last moment shift their position away from the

"common heritage" principle? In St. Augustine, no one was willing to predict a change of mind on the part of either side.

There was one U.S. official (not from the State Department) willing, however, to advance this thought: "Under certain circumstances" maybe no treaty is really to the advantage of the U.S.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 961, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 961) to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The pending business is S. 961.

S. 961—THE WRONG APPROACH

Mr. GRIFFIN. Mr. President, it is not surprising that this and similar legislation in the past has failed to receive the approval of either the Senate Foreign Relations Committee or the House Committee on International Relations.

If enacted, S. 961 would:

Violate solemn international treaty obligations to which we are bound;

Repudiate widely recognized principles of international law that have been acknowledged and invoked by our Government on numerous occasions;

Provide a major precedent for unilateral action by other nations that could restrict our use of nearly one-third of the world's oceans;

Endanger the success of the third United Nations' Law of the Sea Conference when it reconvenes in New York in 2 months to seek a negotiated solution to the very problems this legislation tries to address; and

Increase the chances of a major military confrontation with the Soviet Union, Japan, or other nations endeavoring to protect their access to internationally recognized high seas.

My objections to this bill were spelled out in some detail in the supplemental views which accompanied the Foreign Relations Committee report on S. 961. A copy of those supplemental views—in which I joined the distinguished senior Senator from Wyoming (Mr. McGEE) is on each Senator's desk. I see no reason to restate them here. However, there have been some developments since those supplemental views were written which warrant at least our brief attention.

Shortly after the Foreign Relations Committee reported S. 961 unfavorable, a "Memorandum to the Senate Foreign Relations Com-

mittee Concerning S. 961" was released by the Commerce Committee. Since this memorandum argues that S. 961 does not violate international law, and would not require the abrogation of international treaty agreements, further comment is clearly in order.

On page 12, the Commerce Committee memorandum—and incidentally, Mr. President, I happen to be a member of both the Foreign Relations Committee and the Commerce Committee—asserts: "There are no specific treaty provisions that address the question of the permissible seaward limits of coastal State control over fisheries resources," and cites a "concurring opinion" and the opinion of "the five members of the majority" of the International Court of Justice Iceland Fisheries case to support this view.

To begin with, the merits judgment of the 1974 Iceland Fisheries case was decided by a vote of 10 to 4—the opinion attributed by the Commerce report to "the five member of the majority" is not a majority opinion at all, but simply a separate opinion by a minority of the judges of the International Court of Justice in the Iceland Fisheries case.

Then the question arises, are there specific treaty provisions that address the question of the limits of a coastal State's fisheries jurisdiction? Let us look at the provisions of two very important treaties.

The first two articles of the 1958 Geneva Convention on the High Seas—which was ratified by the President of the United States with the advice and consent of the Senate on March 24, 1961, provide:

ARTICLE 1

The term "high seas" means all parts of the sea that are not included in the territorial sea or in the internal waters of a State.

ARTICLE 2

The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas . . . comprises, *inter alia*, both for coastal and non-coastal States:

- (1) Freedom of navigation;
- (2) Freedom of fishing;
- (3) Freedom to lay submarine cables and pipelines;
- (4) Freedom to fly over the high seas . . .

Even though these two provisions of that treaty would clearly prohibit any unilateral control of fishing outside the territorial sea and internal waters of a participating nation, it has been argued that since the treaty does not specify the limits of a State's territorial sea, the practical result is that there are no treaty provisions addressing the question of our permissible fisheries jurisdiction limits.

However, that reasoning ignores article 24 of another international agreement in the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone, which was also ratified by the President with the advice and consent of the Senate on March 24, 1961.

Article 24 of that treaty provides as follows:

1. In a zone of the high seas contiguous to its territorial sea, the coastal State may exercise the control necessary to:

(a) Prevent infringement of its customs, fiscal, immigration or sanitary regulations within its territory or territorial sea. . . .

2. The contiguous zone may not extend beyond twelve miles from the baseline from which the breadth of the territorial sea is measured.

Thus, when read together, these two treaties, both ratified by the United States in 1961, guarantee freedom of fishing on the high seas limiting a State's unilateral jurisdiction to not more than 12 miles.

At the second U.N. Law of the Sea Conference, in 1960, a U.S.-Canadian proposal for a 6-mile territorial sea and an exclusive fishing zone of another 6-miles failed by only one vote to achieve the necessary two-thirds majority required for incorporation into a treaty.

As I noted in a speech to the Senate on January 31, 1968:

In 1958 and 1960, international conventions at Geneva were unable to agree on a uniform, universal norm as to the extent of the territorial sea. They did succeed, however, in establishing that a country's exclusive jurisdiction should not extend beyond 12 miles.

Similarly, in the Icelandic fisheries case, which as I said was decided by a 10-to-4 vote, the International Court of Justice said:

At the 1958 Conference, the main difference on the breadth of the territorial sea were limited at the time to disagreements as to what limit, not exceeding 12 miles, was the appropriate one.

In its opinion the Court continued as follows:

Two concepts have crystallized as customary law in recent years arising out of the general consensus revealed at that Conference. The first is the concept of the fishery zone, the area in which a State may claim exclusive fishery jurisdiction independently of its territorial sea; the extension of that fishery zone up to a 12-mile limit from the baselines appears now to be generally accepted. The second is the concept of preferential rights of fishing in adjacent waters in favour of the coastal State in a situation of special dependence on its coastal fisheries, this preference operating in regard to other States concerned in the exploitation of the same fisheries, and to be implemented in the way indicated in paragraph 57 below . . .

Paragraph 57 of the court's opinion reads as follows:

The contemporary practice of States leads to the conclusion that the preferential rights of the coastal State in a special situation are to be implemented by agreement between the States concerned, either bilateral or multilateral, and in case of disagreement, through the means for the peaceful settlement of disputes provided for in Article 33 of the Charter of the United Nations.

Mr. President, all of this is to make it clear for the Record that by treaty and under the decisions of the International Court of Justice the unilateral assertion, as this legislation contemplates, of a fishing zone beyond 12 miles would be a violation of international law.

I hope that all of us are sufficiently aware and concerned about the tragic confrontation in recent weeks and months that has occurred between two of our close NATO allies, Great Britain and Iceland, over this very similar issue.

As I am sure that our colleagues are aware, Iceland's unilateral claim to a 200-mile fishing zone led to conflict with British fishermen who have traditionally made their living in the newly claimed waters. Fishing lines were cut, and in response Britain sent tugboats to the scene. The conflict rapidly escalated to ramming and shooting, and British warships were sent to protect the fleet.

Iceland threatened to break relations with Great Britain and to withdraw from NATO, and an American-manned communication station in Iceland has been made the target of a protest by Icelandic fishermen. According to news reports, these fishermen believe the United States should somehow force Britain to back down and remove its fishing fleet from around Iceland.

The fact that shots have been fired between citizens of Iceland and citizens of Great Britain is a tragedy, but it is only a tiny fraction of the horror that could follow enactment of S. 961.

There is little assurance that the Soviet Union—which is responsible for much of the fishing in the high seas which would come under this jurisdiction—would voluntarily accept our unilateral assertion of jurisdiction over waters extending 200 miles off our coast.

Under section 302(b) of this bill, if a Soviet fishing vessel were to be fishing 195 miles off our coast, the Secretary of Transportation, who has responsibility for the Coast Guard, would be empowered to order U.S. warships to board and inspect the vessel and to seize all fish and fishing gear found aboard the Soviet fishing vessel.

Such an act would violate article 22 of the 1958 Geneva Convention on the High Seas, which provides:

ARTICLE 22

Except where acts of interference derive from powers conferred by treaty, a warship which encounters a foreign merchant ship on the high seas is not justified in boarding her unless there is reasonable ground for suspecting:

- (a) That is the ship engaged in piracy; or
- (b) That the ship is engaged in the slave trade; or
- (c) That, though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality of the warship.

Before the Senate acts on S. 961, I think every Senator should consider very carefully the consequences of unilateral disregard of our solemn international obligations—an act that could lead to very serious problems.

In view of the likelihood that our very first target might be a Soviet vessel, and in view of the fact that we would clearly be in the wrong under international law; I am not prepared myself to empower the Secretary of Transportation, or even the President himself, to use military force against foreign fishermen on the high seas 190 miles off our shores.

Mr. President, this is a bad bill. This Nation's foremost scholars of international law are agreed that its implementation would violate international law.

As the tragic situation off Iceland demonstrates, enactment of the bill could lead to very serious consequences. I hope this bill will not be passed by the Senate.

Mr. PASTORE. Mr. President, unlike my dear colleague from the State of Michigan, I believe that the bill we are considering now is a good bill. I must say at this juncture that you have to be hurt to feel the hurt.

The reason why this bill came out of the Committee on Commerce is that we have held hearings, and we have on the membership of that committee Senators who come from States that have felt the hurt. There is no question about it.

As to all this gobbledygook about navigation, there is nothing in this bill that impedes navigation in any way. This is a conservation bill. I know whereof I speak, Mr. President, because I held the hearings in Providence. I held the hearings in Boston. I heard the fishermen.

Only a short time ago, the fishermen from Rhode Island came to my office and explained to me that Russian ships had gone right through their gear, destroying all their lobster pots. These are small

boats. These are small fishermen, unlike the fisherman who come here from Bulgaria and from Russia, with their gigantic factory ships that have the whole family aboard. They have cannery facilities aboard. And what are they doing? They are sweeping up all the fish off the coast of the United States of America.

The mackerel is gone, the haddock is gone, and the yellow tail is gone. Everything is going. The next question is, Where are you going to go to get your food, unless something is done?

As to the argument that we have been trying to work for an international agreement, we have become the patsies of that conference. All we do is get a lot of talk. All we do is get a lot of words, and nothing ever happens.

All we are saying here is that we should pass this law now; and if they do come to an international agreement, the law will expire automatically.

I ask the Senator from Washington, am I right?

Mr. MAGNUSON. The Senator from Rhode Island is right.

Mr. PASTORE. Absolutely.

That is the point, Mr. President. We hear all these legalisms about this treaty and that treaty. When are we going to start protecting American rights? That is the question. When are we going to begin to take care of our own people? That is the question.

Their gear and boats and lobsters have been destroyed. In my State, I had to appeal to the Economic Development Administration, and luckily we were able to get \$250,000 in long-term, low-interest loans in order to save the businesses of the fishermen whose gear was destroyed by the Russians. These lobstermen came to me and said, "I'm ruined. My gear is all gone. I don't have any capital to buy any new gear. What am I going to do?"

That is bad enough, but there is also the conservation problem. The halibut is all gone. All these other species will be gone in time, unless we begin to conserve.

We are not saying to these people, "You have to stay out." We are not saying that at all. But within that 200-mile limit, we want to have some rules. We want to have some guidelines. We want to do this in a way that will preserve our natural resource [Secs. 2: 101]. Senators will recall when our forests and our trees were being destroyed. If we had not begun taking conservation measures, where would be today? That is all we are trying to do. We are trying to preserve the capital assets of America for our children and our children's children, and that is what the story is all about.

Mr. President, I support S. 961, the 200-mile fisheries bill for two fundamental reasons. I urge passage of S. 961, because we have to protect our fleets—our fishermen who have a tradition of three centuries of going out to sea and who are now losing their livelihood by the thousands [Sec. 2]. And the 200-mile bill should be passed, because we have to move quickly before breeding stocks of already seriously depleted species are endangered. [Sec. 2]

Virtually every single commercially valuable fish in the waters off New England is being rapidly depleted. You can name them—the cod, the haddock, the lobster, the Atlantic herring, the yellow-tail flounder, the Atlantic mackerel, the Atlantic halibut.

If anyone needs to be convinced of the impact made by the foreign fleets on our New England fisheries, let him listen to the desperation expressed by our New England fishermen and the record is replete with these complaints.

All of us who are sponsoring this legislation know that ultimately the solution to the problem of the systematic destruction of our marine fishery resources by overfishing can only come when the nations of the world agree to an international regulatory regime governing the exploitation and the conservation of the world's fishery resources. But we feel very strongly that our fisheries and our fishermen must be given interim protection until such international agreements go into effect [Sec. 401]. Otherwise, there may be nothing left to protect.

After years and years of negotiations, the Law of the Sea Conference has not been able to arrive at anything even resembling an agreement on 200-mile legislation.

State Department officials have expressed uncertainty about obtaining an agreement by 1976. It may be several more years before deliberations are completed. And it is going to take a few more years after that—some have testified as many as 10 years—before the requisite number of nations will ratify the treaty to implement it.

So now we are talking about 1980 or 1985, or even beyond, before we have a working international instrument. If we continue to sit on our hands, which is the position of the State Department and the White House, there are just not going to be enough fish left worth protecting by 1980.

Our committee has taken testimony that by 1980 the world's fishing fleets are expected to take 100 million tons of fish. Scientists tell us that 100 million tons is the maximum yield of fish that can be taken from the oceans of the world annually without doing biological harm to world breeding stocks. The world's fishing fleets are now harvesting about 70 million tons of fish annually.

These are the best projections available to the National Marine Fisheries Service. But in the face of this kind of forecast the State Department and the National Oceanic and Atmospheric Administration nevertheless come before us to tell us that we are making a serious mistake in considering this legislation. They plead with us to do nothing until the Law of the Sea Conference completes its deliberations.

In fact, our committee has held field hearings in various coastal locations throughout the country which have been hard hit by foreign fishing. I held hearings a year and a half ago in Providence and in Boston, and without exception the fishermen, the industry people, the academic researchers, and the representatives of State and local authorities responsible for fisheries tell us the same tragic story: The demise of American fishery stocks is directly proportional to the increase in foreign fishing effort.

And the disappearance of our fish is leading to the disappearance of our oldest native industry—fishing—with thousands and thousands of breadwinners being thrown out of work.

The State Department tells us that if the United States takes unilateral action in extending its fisheries zone to 200 miles, the United

States position at the Law of the Sea Conference deliberations will be jeopardized.

I am in direct disagreement with the Department of State and so are a considerable number of Senators and Congressmen. Indeed, we feel that congressional approval of a 200-mile limit bill will strengthen the position of our negotiators. In fact, many observers tell us a 200-mile fisheries zone is likely to come out of the Law of the Sea Conference eventually.

We can no longer tolerate or afford delay because foreign fleets, anticipating a 200-mile zone coming out of the Law of the Sea Conference, are increasing their activity off our shores. Once a 200-mile fisheries zone is established, they will then be able to negotiate with us downward from a higher number of vessels because, and we all know this, a 200-mile zone will mean a gradual reduction in the number of foreign vessels, not a disappearance of all foreign vessels. [Secs. 2; 201; 202; 204; 303]

There is no question that if we do not take action quickly to try to moderate foreign fishing pressure in New England waters and in other American coastal areas, some species are going to be irreversibly depleted. This is not just rhetoric, because the National Marine Fisheries Service has done study after study demonstrating the decline of important New England fish stocks under the impact of foreign fishing fleets.

I am concerned about further delay and I remain skeptical about the effectiveness of international negotiation despite some heralded successes in establishing overall fishing quotas by the International Commission for the Northwest Atlantic Fisheries—(ICNAF)—recently.

My concerns flow from the general and fundamental lack of success of ICNAF, a vehicle for international negotiation, over the past quarter century. Now ICNAF was established when the Northwest Atlantic—the fishing grounds off New England, the Georges Bank and the Grand Banks—was still the richest and most prolific fishing grounds in the world.

With ICNAF watching these great fishing grounds, which New Englanders fished for centuries without doing ecological damage, the foreign fleets moved in and decimated the largest stocks of fish in the world.

Not until the very existence of the haddock was imminently threatened did ICNAF take firm action. But the damage to the haddock was so great that the member nations of ICNAF were forced to clamp a ban on all directed fishing for haddock.

For decades the Georges Bank haddock fishery had been yielding 50,000 metric tons annually, mostly to American fishermen. This is the maximum the Georges Bank haddock fishery could yield without sustaining biological damage. Our scientists knew this when the foreign fleets moved in in the 1960's and disrupted the balance sustained for so long by our New England fishermen.

Now, from a point 30 years ago where we took 50,000 tons of haddock yearly from the Georges Bank, our fishermen have been enjoined from going out and fishing purposely for haddock. Only accidental catches of haddock taken while fishing for other species are permitted.

This is not secret information. The facts and figures concerning the demise of the haddock have been developed by the National Marine Fisheries Service which has been documenting this catastrophe for 10 years now. But what did the United States do about it? Nothing. Nothing effective was done until the haddock was on the edge of extermination and it still remains to be seen if the ICNAF agreements will work or can be enforced.

How effectively can ICNAF agreements be enforced? Let me tell you how difficult that can be despite the existence of agreements prohibiting trawling in the vicinity of lobster pot sets on the continental shelf, a massive Russian fishing fleet last year did immense damage to the pot sets of Rhode Island fishermen when they hauled their gear right through a restricted zone where the American equipment was located. Because many of these fishermen were about to go out of business as the result of the loss of their gear. We were compelled to appeal to the Department of Commerce, specifically the Economic Development Administration, for help. I am happy to say that Mr. Wilmer Mizell, the administrator of EDA, who understood our plight, made possible \$250,000 in long-term, low-interest loan money to these fishermen to keep them in business.

I will not document what has happened to the yellowtail flounder or the herring or the cod but the tale of massive depletion of these species in the face of inaction by the United States is similar if not quite as dramatic. It is a story clearly told in the statistics and documents furnished me by the National Marine Fisheries Service. What I am saying is this is crisis fisheries management and totally inadequate.

As a matter of fact, the depredations upon our fish stocks and our fishermen by foreign fleets have become so severe that last year we had to add an additional Coast Guard helicopter to the fisheries patrol force in New England waters.

And what I am saying is that 25 years of international negotiations involving 16 countries through ICNAF has been tragically ineffective. The time for waiting for international negotiations to succeed is over.

Mr. President, this important bill deserves the support of every Senator who should understand that it has nothing to do with the issue of territorial seas. This bill will not hamper free navigation on the high seas. It will not hamper ocean research vessels. It will not extend the American territorial sea. It is a conservation measure. It will protect our fish stocks so that our children and grandchildren may enjoy as we have the bounty of the sea. It will protect the American fisherman who is generally a small entrepreneur in his competition with the massive state-owned or supported floating fish factories.

We have to move now before our fish and our fishermen find themselves on the endangered species list.

Mr. MAGNUSON. I thank the Senator from Rhode Island.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. MAGNUSON. Mr. President, I move that the Senate stand in recess until 2 o'clock.

The motion was agreed to and at 12:56 p.m. the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding officer (Mr. Helms).

The PRESIDING OFFICER. The Chair, in his capacity as the Senator from North Carolina, suggests the absence of a quorum.

The clerk will call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I have at the desk amendment No. 1187. It is my understanding that there are two proposed committee amendments from the Armed Services Committee with which this amendment is in conflict. Those amendments recommend the effective date of the act to be January 1, 1977. [Sec. 104]

My amendment would make the effective date of the act the date of enactment [Sec. 104], but the enforcement date would be January 1, 1977. [Sec. 312]

Therefore, I ask unanimous consent that my amendment No. 1187 be considered a substitute for the two Armed Services Committee amendment en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, in order to explain what is involved here, it is necessary to refer to the concept of regional management used in the bill. This concept employs the use of regional fisheries councils for the preparing of both a plan for the utilization of the fisheries resources of the 197-mile contiguous zone, and the promulgation of regulations which would be approved and published by the Secretary, Therefore, become Federal regulations. [Secs. 302; 303; 304; 305]

These management councils will need some time to become organized. Yesterday the Senate agreed to my amendment which requires the Governors, if they wish to submit names, to do so within 45 days after the enactment of the bill. [Sec. 302(b)(C)] It requires the President to submit the names within 90 days after the enactment of the bill [Sec. 302(b)(C)], and it then requires the management councils to initiate their actions leading to the formulation of these regulations and plans within 60 days after these appointments are confirmed and they have been established as a council. [Sec. 302(b)]

The purpose of the amendment I have offered is to assure that the effective date of the bill [Sec. 104] is, in fact, the date of enactment. [Sec. 312] This will permit the management councils to proceed in accordance with the amendments which we adopted yesterday. [Secs. 302; 303] This would mean that following the enactment of this legislation the names of potential members of the regional councils would be submitted both by the Governor and the President [Sec. 302(b)(C)], the councils would be formed [Sec. 302], and within 60 days after formation they could start the work of establishing the regulatory pattern, that is the type of plan for the jurisdictional area of the

particular council. [Sec. 302(b)] There would be no enforcement however of any of those regulations until the January 1, 1977, date. [Sec. 312]

The intent of having a January 1, 1977 enforcement date [Sec. 312] is to give those people who have argued that the Law of the Sea Conference will succeed this year an opportunity to demonstrate that, and if, in fact, the Law of the Sea Conference is able to successfully negotiate a treaty, this bill would then become the implementing legislation as far as the procedural aspects of our contiguous zone are concerned with regard to living resources of the sea. [Sec. 401]

If they do not succeed, then the regulations promulgated under a unilateral 200-mile fisheries jurisdiction would become enforceable. [Secs. 312; 401]

I hasten to point out the last time we negotiated an international agreement with regard to the seas it was almost 8 years from the time the agreement was initiated until it was proclaimed by the United States to have been ratified by a sufficient number of nations to become effective international law and, of course, it would be a year or so before even this body would be able to ratify such an agreement.

We need interim protection for our fisheries whether the zone is created by a law of the sea treaty or whether we do it unilaterally. [Sec. 401] The intent of this amendment is to use the regional management councils as the framework for interim action needed to protect our fisheries within the 200-mile contiguous fisheries zone whether that limit is established by international consensus or by unilateral action of this Government. [Secs. 301; 302; 303; 304; 305]

I have discussed the matter informally with those on the committee that proposed the January 1, 1977, date [Secs. 104; 312] and, I might say, my impression is they have no argument with the approach I am using in this amendment. I cannot confirm that, of course, until the committee spokesmen are prepared to make such a statement here on the floor.

I am willing to answer any questions about this amendment. I am hopeful we will be able to bring it to a vote as soon as the Armed Services Committee spokesmen are available.

I might inquire of my colleague if he wishes to proceed with his amendment and, if so, I would be more than willing to set this aside temporarily. I believe it would take a unanimous consent agreement to set it aside.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Is it possible—because of the lack of communication so far from the Armed Services Committee—to set this amendment aside in order to take up another amendment?

The PRESIDING OFFICER. The Chair will state at this point, although the Senator from Alaska has received permission to call up his amendment, he has not technically actually called it up, so if he does not actually wish to call it up at this point, he would be able to yield to the Senator from Alaska for the purpose of offering another amendment.

Mr. STEVENS. In my understanding correct, Mr. President, that the pending business would still be the committee's amendments unless we set them aside?

THE PRESIDING OFFICER. Yes; that is correct.

MR. STEVENS. I repeat the inquiry to my colleague from Alaska as to whether he wishes to proceed with any other amendment at this time.

MR. GRAVEL. First of all, I have no objection to this amendment at all.

Second, I do have an amendment which is at the desk, which has been printed, and my colleague has informed me he has it under study. That is the amendment I would hope to press this body to adopt.

The amendment would be to give the States primary responsibility for the preparation of a plan which would then be approved by the secretary, and then the implementation of that plan would be handled by the State Governor in question.

I appreciate that such an individual plan would not work very well on the west coast or the east coast or the gulf coast because those areas lend themselves very readily to regional management systems. But with respect to Alaska, the coastline of which is equal to any one of the individual coastlines I have mentioned, that is, the west coast, the gulf coast, or the east coast, if those three areas offer from a geographic point of view the efficacy of regional management then, certainly, the situation in Alaska, the coastline of which equals any one of those three, would have the same efficacy of management by the State taking over its responsibilities in that regard.

This would not be a new activity for the State. This is an activity we have undertaken since statehood, have done an admirable job, and in fact, my objective analysis is that it has been a considerably better job than has been done by the Federal Government for the 50 years prior to the period we have had management of our fisheries.

So I would be prepared to call up my amendment at any time it would accommodate the managers of the bill, but as was said to me, they had it under study and I will not call it up until they are prepared to adjust themselves to it.

THE PRESIDING OFFICER. (Mr. Schweiker). The Senator from Alaska is recognized.

MR. STEVENS. Mr. President, I ask that the unanimous-consent agreement which was previously agreed to regarding my amendment No. 1187 be rescinded and that my amendment No. 1187 be considered as a substitute for the Armed Services Committee amendments that appear on lines 3 and 4 of page 71. [Secs. 104; 312]

I send to the desk a modified amendment. In view of the statement just made by my colleague, I will not call that up at this time, but I do want the Record to show that the previous agreement was rescinded.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Senator McIntyre has an amendment, which I think is a minor amendment. I think the managers of the bill would be willing to accept it. We also must have time to work on the Bentsen amendment which is on the shrimp matter. We are attempting to work out our differences on that amendment. So I think we could finish all printed amendments by Thursday.

I would not want to bar further amendments by the Senator from Alaska. He might think other amendments between now and Thursday.

I hope he does not, but he might.

In regard to the ones I have just mentioned, I believe we can get a unanimous-consent agreement to dispose of them by Thursday.

Mr. GRAVEL. I would have one caveat. That is the difficulty I have in catching up on the research, the chances to be able to get a consent request like we had yesterday which would not impair the amendment of a section which has already been amended. I can appreciate the committee wanting to perfect the bill and Members wanting to similarly perfect the bill. But I would like to have as great a latitude as possible.

Mr. MAGNUSON. I would agree to that. There might even be some amendments which the Senator from Washington might think of. But they would be minor.

Mr. GRAVEL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAVEL. Would the handling of that amendment come under the unanimous-consent request secured yesterday by the managers of the bill with respect to not impairing the ability to amend these sections again?

The PRESIDING OFFICER. The agreement of yesterday only applied to yesterday. Any agreement today would have to be specified today.

Mr. GRAVEL. I thank the Chair.

Mr. President, as an inquiry to the managers of the bill, they have stated repeatedly that the fish of our oceans are being drastically depleted by the viciousness of foreign fishermen.

Maybe they already have put it in the Record, but I wonder if they might detail for the Senate one at a time what those species of fish are so that we might know. Are we talking about the salmon, are we talking about the halibut, what are we talking about when we talk about what fish are being threatened?

I think it would be edifying to just tick off the fish in question and make a tally sheet and see what is really happening to each one of those species.

Mr. STEVENS. We would be glad to do that.

May I inquire, would the Senator have any objection to scheduling of some votes for Thursday?

We know Thursday will be a very active day. We have got this amendment, we have the Bentsen amendment, we have the Senator's amendment, and I understand that we are to have a motion to recommit.

If we could get an agreement to have those votes on Thursday, I think that it would facilitate the work of the leadership and would give notice to everyone when we intend to begin voting on this bill.

Mr. GRAVEL. I would be happy to have all those votes take place on Thursday. There is just one vote in question. I certainly know of no one at this point in time who intends to make a motion to recommit. Certainly, I have spent time here opposing it, and I hope the movers of the bill would not make a motion to recommit their own legislation. I do not know of anybody on our side right now that is planning a motion to recommit.

But certainly on the other votes and the vote of my amendment, with respect to the managers, I would be happy for a vote on Thursday.

Mr. MAGNUSON. I wonder if the Senator from Alaska would agree to the unanimous-consent request which the senior Senator from

Alaska will make—that we conclude all votes on amendments to the bill—not final passage—or a vote on any motion to recommit on Thursday, at a time to be set by the leadership?

Mr. GRAVEL. I am in the process of doing research now for one amendment which I think will be very important—I think the Senator from Washington will appreciate the importance of that amendment when he sees it—that goes to the heart of this legislation, because there has been a lot of good work done by the committee on this legislation and I want to endorse that and support it.

So I am going to try to devise a way where the areas I think are harmful to our national policy can be removed from the bill or substituted to accomplish the same thing the Senator is.

Mr. MAGNUSON. I am not going to discuss the merits of any particular amendments at this time. What I am trying to do is see if we cannot come to some general agreement on voting on whatever amendments there are on Thursday.

Mr. GRAVEL. I would be happy to accommodate the Senator.

Mr. MAGNUSON. We will have to have the time limitation or the time certain for a vote set by the leadership.

I suspect that it would be later in the afternoon on Thursday because of other prior votes. If we can have such an agreement, I think we can then proceed.

Mr. GRAVEL. Yes.

Mr. MAGNUSON. The situation today is that we have no further amendments from our side ready to be voted on. The one to be offered by the Armed Services requires additional discussion with its sponsors. We have not been able to agree on the final terms of the amendment with either Senator Taft, who sponsored it, or the chairman, Senator Stennis. Both Senator Stennis should be here by Thursday, as I think will Senator Taft. They are not available right now.

But I am now talking about the so-called two or three major printed amendments. We will have to meet the problem of additional amendments after we are through with the printed ones.

Mr. GRAVEL. Very good.

Mr. MAGNUSON. I will not make the request now, but I want the Record to show that we probably can arrive at some agreement.

Mr. GRAVEL. And I want to underscore the Record in that regard, that we will make every effort to accommodate the Senator.

Mr. MAGNUSON. I would suggest the absence of a quorum, Mr. President, unless the Senator from Alaska wants to proceed.

Mr. GRAVEL. No. There was only the point I raised a moment ago, which I think would be helpful to the colloquy in question, and that would be to arrive at an agreement between ourselves as to what fish are being overfished and what fish are not being overfished. That is the heart of the Senator's argument.

Mr. MAGNUSON. I understand what the Senator from Alaska is trying to say. We have heard substantial evidence concerning this bill. I would like to flood the Chamber with the data and with pictures of the ships the foreign fishermen use. They look like ocean liners. The Chamber is hardly big enough to hold even the pictures.

We should get down to the facts about foreign overfishing.

As far as I am concerned, I want to stop them from fishing for any kind of fish, if I could. I do not care what kind of fish they are.

Mr. GRAVEL. My colleague knows I share his views in that regard.

Mr. MAGNUSON. I am including even the sardines out there.

Mr. GRAVEL. I know of my colleague's good intentions in wanting to protect the fisheries of the United States. I similarly want to protect those fisheries. I have tons of material and the Senator has tons of material. I believe we get carried away with the tons of information and material we have on the subject. When we get right down to the heart of the matter, let us start ticking off for our own edification and the edification of the Nation which species of fish today are threatened. Is it herring? Is it pollack? Is it halibut? Is it salmon? Let us name it and just make a list together. We will work together and with the affection we have for each other will just tick off these species so we will know the problem that the Nation faces. All we have are generalities that the fish are being overfished. I would like to know which ones and where they are located and maybe try to find a way to solve that problem.

Mr. MAGNUSON. I do not know that we should allow them to fish for any kind of fish in our pasture unless they practice conservation. There is no reason for them to do it. Personally, if I had my way about it, I would stop them from fishing for any kind of fish.

Mr. GRAVEL. But certainly the Senator from Washington would not want to deny—

Mr. MAGNUSON. This bill does allow foreign fishing within the 200-mile limit. [Sees. 2(c) (4) : 201; 202; 204; 303(a) (1) ; 303(a) (4)] If there is a good case, if conservation is practiced, we can make agreements such as we have now, within the 200-mile limit. As a matter of fact, the Senator from Alaska and I know that it is too bad this cannot be worked out another way. Two hundred miles is not a magic line. If we could, in some way, figure out how the shelves go out, in one place it might be 50 miles and in Alaska it could be the Bering Sea, the Continental Shelf. President Truman declared the Continental Shelf as part of our territory in the Truman Declaration. But is it possible to get such agreements with this bill?

When we talk about 200 miles we will be enclosing the bulk of the fish off our shores, those we do not want foreigners to destroy. [Sec. 101]

Mr. GRAVEL. But the Senator will agree with me that, as I stated, as I understood his statement, if we have an abundance of fish that we are not using, we are morally bound to see that that protein gets into the mouths of the hungry of the world.

Mr. MAGNUSON. If we have abundant fish, why not let them stay there?

Mr. GRAVEL. Stay in the water?

Mr. MAGNUSON. Yes. We do not have to fish them just because they are abundant.

Mr. GRAVEL. I believe I would part company, then.

Mr. MAGNUSON. If we want to fish them, we will.

Mr. GRAVEL. That is probably the greatest—I will not say it is the greatest arrogance but I think it is an unfortunate statement. If we have fish, rather than see them rot in the ocean, I would rather see them brought to a maximum sustainable yield and feed some human being. It does not have to be an American human being. I would rather we catch them and make the money in the economic process.

Mr. MAGNUSON. The bill provides for that. [Secs. 2(a) (6) ; 2(a) (7) ; 2(b) (6) ; 301(a) (5)] I get so put out about those foreigners fishing off the coast of my State I sometimes get carried away and appear willing to bar all their fishing.

Mr. GRAVEL. But with the record of the Senator in the Senate for trying to help the hard-to-help people, I am sure that down in his heart he wants to feed the hungry of the world as much as I do, and maybe more so. The Senator's record cries out that that is his position.

Mr. MAGNUSON. We do not have abundance in every case. We are not talking about that. If the people of the rest of the fishing nations are going to have to rely upon overfished stocks off our shores for the purpose of foodstocks, it is going to be pretty bad for the future of the world.

Mr. GRAVEL. Again, if I might state it again, this is the heart of the matter. Let us detail out what are the fish that we have in abundance and what are the fish that we feel are endangered. Let us make a list. There cannot be that many.

Mr. MAGNUSON. The Senator has a list, does he not?

Mr. GRAVEL. I would suggest some fish and maybe the Senator could agree or disagree.

Mr. MAGNUSON. The Senator's colleague said we would be willing to supply that. There are certain species we know about.

Mr. GRAVEL. For example, we feel that the pollock is overfished.

Mr. MAGNUSON. The haddock is one in Senator McIntyre's country, and we know the problems about the salmon.

Mr. STEVENS. We have a chart on it.

Mr. GRAVEL. Maybe the chart could be brought out and we can discuss it.

Mr. MAGNUSON. What I am trying to find out is not to argue about the bill today, but to see if we can get procedures worked out where we can come to grips with these issues and then have some action.

Mr. GRAVEL. I think procedures would be dependent upon knowledge and the knowledge I am trying to secure in this regard is what specifically are the fish which are being overfished within our 200 miles. If we can begin to identify them in a very methodical fashion, it would be better.

The Senator from Washington has stated haddock, and I agree that is a fish that is overfished. I would recommend that the Alaskan pollock is a fish that is being overfished. Would the Senator agree to that?

Mr. MAGNUSON. We now have the charts. The yellow tail flounder is one of them.

Mr. GRAVEL. I will buy that one, that that is a fish that is overfished.

Mr. MAGNUSON. May I inquire of the Senator from New Hampshire if he wished to make a statement today?

Mr. MCINTYRE. That is correct.

Mr. GRAVEL. I would be prepared to hold off and accommodate him since he has just come into the Chamber, I would be happy to yield at this time.

Mr. MAGNUSON. I yield to the Senator from New Hampshire.

Mr. MCINTYRE. I thank the distinguished chairman of the Commerce Committee.

Mr. President, I think I speak for the Atlantic seaports up off the New England coast, where we have been putting up with the Russians,

the Poles, the behind-the-Iron-Curtain countries for so long that our fishermen are sick and tired of it.

So I rise to speak today with a strong sense of *déjà vu*. It was just about a year ago that the Senate considered legislation similar to S. 961, an interim measure to extend our fisheries zone to 200 miles. At that time this body recognized the need for this interim fisheries protection measure and passed enacting legislation 68 to 27. Failure of the House to act last year resulted in the death of that bill. The earlier action of the House on this year's measure should add momentum to our efforts to enact this much needed legislation.

Today we find our fishing industry in the same situation it was last year. Foreign fleets continue to grow, utilizing destructive fishing practices.

Yet here we sit waiting for a multilateral agreement resulting from the Law of the Sea negotiations. An argument that even Ambassador Jack Stevenson, past head of the U.S. Law of the Sea negotiating team, does not expect for 3 years with several years passing before all nations ratify the agreement and it becomes effective.

We cannot wait any longer. The House has acted and agreed with the Senate sense of urgency. Let us enact S. 961 and send it to the President for his signature.

Make no mistake, I wholeheartedly support our efforts to negotiate a Law of the Sea agreement. During this past year I traveled to Geneva, Switzerland, as a congressional observer for our negotiating team. I did this to add hope and new life to our team's efforts. I wanted these hard-working women and men to know that their tireless efforts were recognized and supported and that the United States wants to see a comprehensive treaty completed. I went, also, to see first hand the progress being made.

I must report to you that I returned from Geneva more convinced that this interim protection is needed. One single text was developed during this past session. However, my close contact allowed me to see that within the Law of the Sea Conference many factions and interest groups are developing. These barriers will take long and delicate negotiations to circumvent. The time and effort spent on these treaty negotiations must continue; but not at the expense of our domestic fisheries.

Enactment of S. 961 will not undermine these efforts.

S. 961 is consistent with the U.S. negotiating position on an economic zone for fisheries. [Sec. 2(c) (5)] General agreement does exist among nations at the conference to establish 200-mile fishery zones off coastal States. Given that S. 961 closely parallels the language contained in the Law of the Sea negotiating text with respect to fisheries, it clearly reflects an international consensus on this issue. [Sec. 2(c) (5)] In addition, the establishment by S. 961 of a 200-mile fishery zone is only interim legislation which will terminate with acceptance of international agreement on fishery jurisdiction. [Sec. 401] S. 961 therefore supports the Law of the Sea negotiations. [Sec. 2(c) (5)]

It has been argued that enactment of this legislation would conflict with present international law. Freedom of fishing has been recognized throughout the world but not as an unqualified right. The Geneva Conventions recognized the special right of a coastal nation to unilaterally adopt conservation measures off its shores.

It should be clearly understood that foreign fishing is not excluded in the 200-mile zone; it is merely regulated. [Secs. 2(c) (4); 201; 202; 204; 303(a) (1); 303(a) (4)] Further, S. 961 requires the negotiating of new fisheries agreements to insure compliance with S. 961. [Sec. 202] These new agreements will include protection for our domestic stocks as well as for anadromous species which spawn in our rivers and waterways. [Secs. 202(a); 202(b); 202(c)]

A clearly defined international rule delimiting coastal nation jurisdiction over fisheries resources does not now exist. Dramatic changes have recently occurred in the levels of fishery stocks, technology of fishing and the extent of distant fishing efforts. Adjustments in international law must be made to accommodate these changed conditions. Interim changes are justified now until such time as more sweeping changes occur through a Law of the Sea Treaty.

Other members of the Armed Services Committee and I, during hearings on S. 961, listened to the arguments of the Departments of State and Defense. Arguments were made that U.S. extension of our fisheries jurisdiction would lead to worldwide extension of a sovereign territorial sea.

Evidence presented in both open and closed sessions before this committee did not convince a majority of the Armed Services Committee on this point, and the Armed Services Committee, with the arguments of the military in opposition, voted, I believe by a vote of 9 to 7, to support this bill.

The committee did express concern for the apparent misrepresentation of this legislation. The International community must understand the limited scope and interim effect of the legislation. I do not believe that the world community would react to our protection of our fish stocks as strongly as to claim a 200-mile extension of sovereignty.

I was convinced last year of the appropriateness of this action. This year I am even more concerned for waiting any longer and more convinced we should act now to create a 200-mile fisheries zone. [Sec. 101]

Mr. President, I have an amendment at the desk. I ask unanimous consent that it be reported.

The PRESIDING OFFICER (Mr. Bellmon). Without objection, the committee amendments will be temporarily set aside in order that the Senator's amendment may be taken up. The clerk will state the amendment.

The legislative clerk read as follows:

On page 43, line 9, insert the following new sentence after the period:

"The Secretary of State, upon the request of and in cooperation with the Secretary, shall, in addition, initiate and conduct negotiations with any foreign nation in whose fishery conservation zone or its equivalent, anadromous species spawned of fish spawned in the fresh and estuarine waters of the United States are found for the conservation of such species of fish." [Sec. 202(a) (4) (B)]

Mr. McINTYRE. Mr. President, I call to the attention of the chairman of the Commerce Committee, the distinguished senior Senator from Washington (Mr. Magnuson), that the amendment I am offering today seeks to clarify the international agreements authorized under section 103a of S. 961. [Sec. 202(a)] Specifically, my amendment will authorize the negotiating of an international agreement between the United States and those nations to which salmon spawned in American rivers and waterways migrate. The language in the original bill is ambiguous.

I want to insure the protection and conservation of Atlantic as well as Pacific salmon. **[Sec. 202(a) (4) (B)]**

Anadromous fish such as the salmon require special agreements for management and harvest because during their lifespan they visit the waters of several nations. Therefore, the fisheries bill we are considering today should include this provision I am offering. **[Sec. 202(a) (4) (B)]**

This amendment is offered for the special protection and restoration of Atlantic salmon of U.S. origin, upon which this Government and the New England States are spending millions of dollars. Section 103 of S. 961 **[Sec. 202(a)]** authorizes the Secretary of State, upon request of the Secretary of Commerce, to initiate and conduct negotiations with foreign nations for the purpose of effective international fisheries agreements with nations wishing to fish within the fishery conservation zone of the United States, and with respect to U.S. vessels wishing to fish in the conservation zones of other nations. It does not, however, cover the situation where the United States has no interest in fishing, but wishes to negotiate agreements the sole purpose of which is to conserve stocks of U.S. origin, while on their migration to the feeding grounds of other nations, before returning to their natal rivers in the United States. **[Sec. 202(a) (4) (B)]**

After 8 years of a steeply escalating over-exploitation of Atlantic salmon stocks of West Greenland, in 1972 a United States-Danish Atlantic Salmon Conservation Agreement was reached, by which the Danes agreed to phase out the "high-seas" fishery off Greenland by 1976; they also agreed to limit the "inshore" native Greenland fishery to 1,100 metric tons. This agreement was incorporated into an identical measure by the International Commission for Northwest Atlantic Fisheries later in 1972.

However, it is generally thought that ICNAF is deficient in that the system of inspection and reporting is inadequate in terms of authority, funding, vessels, and manpower. Also, regulations for punishing infractions are unrealistic and, in effect, unenforceable.

It would be of little use to propagate and protect these salmon while under U.S. jurisdiction only to leave open the potential for exploitation once they migrated beyond 200 miles. **[Sees. 102; 202(a) (4) (B)]**

Finally, it is important to note that the amendment I am offering is consistent with proposals for conservation of anadromous fish as expressed in part II of the single negotiating text, as presented by the Chairman of the Second Committee of the Third U.N. Law of the Sea Conference. **[Sec. 202(a) (4) (B)]**

I trust that the distinguished chairman and manager of the bill will find this amendment acceptable and agree to accept it.

Mr. MAGNUSON. Mr. President, I wish to say to the Senator that we had thought that the bill to provide for what he is suggesting, and his amendment should be acceptable. But in order to clarify it, the purpose of the amendment is again a classic case of what we need to happen. The Atlantic salmon were just wiped out completely, and what we are trying to do and what he is trying to do is give us a chance to build them back. That is all it amounts to. **[Sec. 202(a) (4) (B)]**

Mr. McINTYRE. That is right.

All this amendment attempts to do is clear up any possible ambiguity so the United States and the Secretary of State can negotiate with foreign nations concerning the fish. **[Sec. 202(a) (4) (B)]**

Mr. MAGNUSON. It encourages international negotiations as part of the effort to protect our fisheries. [Sec. 202(a)]

Mr. McINTYRE. That is right.

Mr. MAGNUSON. So I am perfectly willing, and I am sure the Senator from Alaska is willing, to accept the amendment.

Mr. STEVENS. I think the intent of this amendment is entirely consistent with our bill and clarifies it. I see no objection whatsoever.

I congratulate the Senator. I think it is a good amendment.

Mr. Gravel addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire has the floor.

Mr. GRAVEL. Mr. President, will the Senator yield for a unanimous-consent request on this amendment?

Mr. McINTYRE. I yield.

Mr. GRAVEL. What I wish to do is treat it as original text so in case we wish to amend that section later on we would not be foreclosed from doing that. We did this yesterday to protect the amendment.

It would not impair his amendment at all, not in the slightest, and I would agree with his amendment.

Mr. McINTYRE. Mr. President, I ask my good friend from the State of Alaska to explain again what he would wish to do.

Mr. GRAVEL. Yesterday we amended the bill with technical amendments. That is a process that normally takes place at the end of debate. The reason we did that is because they had some obvious corrections.

This is similarly an obvious correction.

I ask unanimous consent that it be treated as original text so in case we wish to amend that section of the bill later we would not be precluded from doing that. Under parliamentary rules, if we amend it, then we foreclose the ability to work in that section of the bill at a later time.

So, obviously, I am working on some research for some amendments to various sections of the bill.

It would not impair his section at all. I am in agreement with his amendment. I wish to be added as a cosponsor to this amendment.

All I wish to have done is to have it treated as original text.

Mr. McINTYRE. Mr. President, if I understand the request of the distinguished Senator from Alaska, he is stating that this paragraph, in which we have made this slight change to take out the ambiguity, would be foreclosed from further amendment if we now accept this amendment and take it as such. So, Mr. President, I am perfectly willing to do that, with the understanding, assurance, and promise of the distinguished Senator from Alaska that nothing he or his cohorts may do, or nothing that any of the opponents of this bill may do would have any effect on this very simple amendment which clears up some ambiguities. I am happy to hold the adoption of this amendment and keep it until a later date.

Mr. GRAVEL. No. I would make the unanimous consent right now and adopt the Senator's amendment, have it reconsidered, and lock it in. I shall then offer my name as a cosponsor of the Senator's amendment to show him my good faith.

Mr. McINTYRE. Does that protect the Senator from Alaska?

Mr. GRAVEL. Yes, we are both protected.

Mr. McINTYRE. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. Yes, reserving the right to object, I ask the Senator to permit me to make the unanimous-consent request first.

Mr. MCINTYRE. I am happy to hear the unanimous-consent request.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the amendment of the Senator from New Hampshire, when adopted, be considered as original text.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCINTYRE. Mr. President, I ask unanimous consent that I be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCINTYRE. Mr. President, I ask unanimous consent that the distinguished Senator from Alaska be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCINTYRE. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MCINTYRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if a motion to recommit this bill is going to be made it be made at the close of business tomorrow, with a vote to occur thereon on Thursday.

Mr. GRAVEL. Mr. President, I reserve the right to object.

Thus far I have been handling the floor in opposition to the legislation. That kind of a motion certainly would come from those parties who are in opposition to the legislation. I know of no person yet who has indicated to me that he would be making a motion to recommit. With the differences we have in this legislation, I do not know if a motion to recommit would be the best way to approach the problem.

With that thought in mind, I object to the request.

Mr. STEVENS. Mr. President, will the Senator yield before the objecting?

Mr. GRAVEL. I am happy to yield, holding my right to object in reserve.

Mr. STEVENS. I made the request to the acting majority leader concerning this because there is, as the Senator knows, a rumor floating around that there will be a motion to recommit. We understand my colleague will not make such a motion. But it does seem that, if it is to be made, it ought to be made at the beginning of a bill like this before we get into the technical detailed amendments. I really think that it would be in order to set a time limit on the making of the motion to recommit. Then if someone wishes to make a motion to recommit, he can make it by tomorrow evening and we will know. When all of the Members are here on Thursday we can take it up. To have it made, say, on the following Monday, or Tuesday, after we have taken so much time on this bill I think would be in error.

I hope the Senator will allow us to set a time limit.

Mr. GRAVEL. I have never heard a unanimous-consent request made based on a rumor and on if someone is going to do something. We would have him locked in before that poor soul would know what he

is going to do. So obviously this is so iffy and tenuous a proposal that I am surprised it comes from the proponents of the bill. This is the kind of action I would expect from our side of the aisle, but, no, the proponents wish to lock in a motion to recommit. I do not know as that is the best course of action.

We are sincerely trying to get the best legislation in the best interests of the country. So, with that in mind I feel constrained to object to that unanimous consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. PACKWOOD. Mr. President, once again in the Senate we turn our attention toward the establishment of a coastal fisheries protection zone. As you recall, last year the Senate passed a 200-mile bill by a margin of 68 to 27, but similar legislation did not come up for a vote in the House. Now the House has passed 200-mile legislation of their own.

As we resume consideration of this measure in the Senate, it might be worthwhile to examine a few events which have transpired since we passed the bill 1 year ago:

First. Most significantly, the latest session of the Third Law of the Sea Conference held in Geneva adjourned last May without reaching a 200-mile accord. How this brings back memories of State Department officials who have implored Congress over the years not to act unilaterally on a 200-mile limit because a negotiated one was just around the corner. I can recall the litany all too well. We need to go back only a few short months prior to the Caracas session of the Law of the Sea Conference. The date is February 26, 1974, and Congressman Downing is questioning John Norton Moore, Deputy Special Representative for the Interagency Task Force on Law of the Sea, in proceedings before the House Merchant Marine and Fisheries Committee, Subcommittee on Oceanography on the prospect of achieving a negotiated 200-mile treaty at the upcoming Caracas session:

Mr. DOWNING. Now the Caracas conference will probably conclude when, in September?

Mr. MOORE. August 29.

Mr. DOWNING. Do you reasonably expect agreement at Caracas?

Mr. MOORE. The United States will be going to the session fully prepared to reach an international agreement, which we feel will be not only in our interest but one which will be in the interest of all nations. We hope very much that would be the outcome of Caracas. We would particularly expect at Caracas, at least, that there would be an outline or an agreed parameter of the outlines of the final agreement. For our part, we are going, prepared to reach that agreement at Caracas and will be negotiating accordingly.

Well, Mr. President, by the end of August 1974 the nations meeting in Caracas had not reached agreement on a 200-mile limit so Mr. Moore was back before the House Merchant Marine Committee on September 25, 1974, explaining why. This gave Congressman Kyros an opportunity to ask Mr. Moore about the prospects for a 200-mile treaty at the next Law of the Sea Session in Geneva:

Mr. KYROS. Let me ask you one question that you can perhaps answer categorically and it is simply this: By what date and in what year will we have a comprehensive Law of the Sea agreement on fisheries that will encompass every foreign nation fishing off our waters right now?

Just give me a figure—10 years, 15 years, 50 years?

Mr. MOORE. There is no reason that we cannot have that agreement within 1 year, that is on the General Assembly schedule of not later than 1975.

Mr. KYROS. A 200-mile fishing limit included within an economic zone, controlled by America, by the coast States within 1 year?

Mr. MOORE. That is correct. There is no reason we cannot have it on the General Assembly schedule which calls for any additional session or sessions of the Conference to be held no later than 1975 and if we can provisionally apply the treaty then provisional application would go into effect at that point.

Mr. KYROS. When is your meeting in Geneva?

Mr. MOORE. March 17 to May 10.

Mr. KYROS. Of what year?

Mr. MOORE. Next year.

Mr. KYROS. A year from now, 1975, is that right?

Mr. MOORE. This coming year.

Mr. KYROS. You mean to say you will have a treaty that the 37-odd nations that fish off the United States are going to sign?

Mr. MOORE. We very much hope it will be a much larger group than even those fishing off our coasts.

Mr. KYROS. In the whole history of the Law of the Sea Conference this has never happened before. You could not go amiss?

Mr. MOORE. Unlike 1958 and 1960 we genuinely have a unique opportunity because it is being approached in a package treaty. All of the nations of the international community that have an interest are involved in these negotiations. If we lose the opportunity now for a widely agreed treaty it may never return.

Mr. President, Geneva is history, as will soon be 1975, and the 200-mile limit is not among them. Thus even the most optimistic proponents of a negotiated 200-mile limit have turned to face the pessimistic realities. So Mr. Moore returned to the House this year after Geneva to report that 200 mile negotiations "cannot be completed before mid-1976 at the earliest and at this time it is not clear whether or not a treaty can be completed during 1976." At the same time, under Secretary of State Maw announced that he could not say whether the Law of the Sea Conference would conclude negotiation of a 200-mile treaty within 3 to 5 years.

Second. Yet the failure of Geneva to achieve a 200-mile accord is not the only event which has taken place this past year which would increase the burden on Congress to make such a limit a reality through legislation. I would like to call attention to valuable surveillance of foreign fishing carried out on a year round basis by the National Marine Fisheries Service. The Service reports each month the number of foreign fishing vessels it observes operating off a given U.S. coastal area. On the west coast, I receive from NMFS reports covering foreign fishing activity in an area stretching generally from San Francisco north to the U.S./Canadian border. In this coastal area of the United States alone, NMFS has observed a dramatic increase in foreign fishing vessels for each of the first 10 months of 1975 over 1974 except September:

Month	Vessels, 1974	This year	Percent increase (1975 over 1974)
January.....	0	7	700
February.....	0	8	800
March.....	0	66	560
April.....	7	94	100
May.....	72	107	49
June.....	75	111	48
July.....	86	114	33
August.....	75	82	8
September.....	87	28	168
October.....	13	23	76
Average percent increase (1975 over 1974).....			60

¹ Decrease.

It is interesting to note that the only month which shows a decrease in foreign fishing activity is September. This decrease is due to the fact that the Soviet hake fishing fleet left the west coast and headed for home earlier this year. National Marine Fisheries Service estimates that the Soviet hake catch was down this year over last giving rise to speculation that the Soviets may have substantially depleted the west coast hake fishery.

Third. Of course, this year as last, the proposed unilateral establishment of a 200-mile zone brings with it fears that other countries will not respect the zone thereby causing a military confrontation. However, while we cannot cavalierly discard such fears, their credibility must be examined in the light of available evidence. For example, the Soviets have been extremely receptive to negotiations by U.S. private industry to a plan which would pay U.S. fishermen to fish for the Russians should a 200-mile zone be created. The existence of such negotiations indicates to me a certain willingness on the part of the Soviets to respect a 200-mile zone.

Fourth. Lastly, Mr. President, we cannot ignore the fact that other countries continue to move ahead on their own to protect their fisheries resources through the establishment of fishery protection zones. In the past year both Iceland and Mexico declared 200-mile zones joining a list of 36 other countries who have zones extended beyond the traditional territorial limits.

We are told by the State Department and others who oppose the unilateral establishment of fisheries protection zones that such actions are ill-considered and not in keeping with "international responsibilities." We are warned that others would not respect our zone if we went ahead on our own. The merits of recent international agreements are extolled as having a significant impact on reducing foreign fishing. And, as always, there is another session of the Law of the Sea Conference just around the corner upon which we can predicate rosy hopes for multilateral accord.

Mr. President, I am tired of indulging in these fantasies. I have taken some length in this statement to attempt to point out their weaknesses. I would prefer to see a 200-mile zone established in accord with the other countries of the world but I am not prepared to defer the matter indefinitely in favor of diplomatic niceties. When the Senate voted last year to approve a 200-mile zone it was our mandate for action—that we put this matter off long enough. It is time now to reaffirm that mandate. The events of the past year serve only to support our reasons for doing so.

Mr. HATHAWAY. Mr. President, in a recent article in a Wiscasset, Maine, newspaper, James Emerson of Maine Coast Seafoods poignantly posed the issue which we are in reality debating here today in connection with the 200-mile limit bill. Mr. Emerson said:

Fishing has got to be controlled. What happens if the day comes when there's nothing, nothing at all out there. Then what are we going to do.

This is the issue. That is what we are talking about in debating whether or not to extend the U.S. fisheries limits to 200 miles. What are we going to do if the day comes when we no longer have a viable commercial fishing industry? Will we reach that day soon if we do not take steps to enact effective fisheries management programs? As the

article in the Wiscasset newspaper points out, limited steps in fisheries management can be taken now, but they are only a "step in the right direction." Stronger and more effective management and conservation efforts are needed and are needed soon.

That is why I am a long supporter of extended fisheries jurisdiction and of the Magnuson Fisheries Management and Conservation Act. As a Senator from a coastal State, and a former member of the House Merchant Marine and Fisheries Committee, I have seen only too clearly what serious overfishing off our coasts has done to the New England fisheries. The problem is not just that U.S. fishermen are at a competitive disadvantage with the heavily subsidized foreign fleets off our shores, but that the fisheries resources themselves are being depleted. The State Department recognizes this fact clearly; the first response in a list of talking points which they distributed to all Members begins, "It is true that many stocks off the United States have been depleted by foreign overfishing during the past 15 years." The supporters of extended jurisdiction legislation do not disagree with the State Department on this fundamental fact; it is rather on the most effective means of protecting our depleted stock on which disagreement exists.

The effects of foreign fishing has been especially acute off the New England coast. In a particularly rich fisheries area—that of Georges Bank—88 percent of the total catch was taken by U.S. fishermen as recently as 1960. As of 1972, the figures were turned around and foreign fishing accounted for over 89 percent of the total catch from the Georges Bank area. In just 12 years the relative catch of U.S. and foreign fishermen was reversed. This statistic reflects untold economic disruption for our individual fishermen and, of course, an increasingly adverse balance of payments for the Nation as increasing market demand for fish products has been met by imports. Testifying before the Small Business Committee last spring at hearings on the "Economic and Loan Problems of the Fisheries Industry," Richard Reed of the Maine Sardine Council surveyed the damage done by foreign fishing to the sardine industry. He said that from 1941 to 1960, the sardine business had an average pack of about 2½ million cases a year. From 1962 to 1975, after foreign fishing started in earnest, the average pack was from 900,000 to 1 million per year. He felt that foreign fishing was resulting in the taking of the larger, strong fish and that a decline in the number of juveniles was taking place.

At these hearings, fisherman after fisherman stressed the need for extension of the fisheries limits as a necessary first step in correcting this situation: and significantly, they recognized that extended jurisdiction was not a complete or simple answer to a complex situation, but rather that each of them—and the industry as a whole—would have to cooperate in conservation efforts for the sake of the preservation of the industry itself.

It is obvious, however, that management of our fisheries resources is not a parochial issue: it is an issue in which there is an international stake which goes beyond State or national boundaries. And as I know others here have emphasized, S. 961 recognizes the international nature of the issue. [Secs. 201: 202] It is an interim measure only. [Sec. 401] limited exclusively to jurisdiction over fisheries. [Sec. 101] and is designed to end when agreement is reached at the international level.

[Sec. 401] In supporting this bill, I do not intend to designate the importance of the international negotiations which have been taking place over the past several years, but I do recognize the constraints that necessarily surround the achievement of a final international agreement. The most important of these constraints vis-a-vis our domestic fishing industry, is time. Now after 8 years of work, with prospects for agreement still not certain for the next Law of the Seas Conference, and with the prospect of several more years for ratification of any LOS agreement, the time constraint of doing nothing, pending successful international agreement, has become a critical factor for our fishing resources and industry.

Presiding at the small business committee hearings this past spring on the fisheries industry, the benign neglect of the Government toward this once thriving industry was again made apparent to me. Our one direct loan program for fishermen has been under a moratorium since 1973, and the Federal/State grant programs have been subject to attempted cutbacks. Fishermen have been denied relief from ravages such as the red tide phenomenon and no effective recourse is offered fishermen whose equipment is damaged or destroyed by foreign vessel operations. Once, the majority of fishermen might even have preferred this attitude of benign neglect on the part of the Federal Government. Now, however, over the past 15 years these people have seen the source of their livelihood, the fisheries resources, increasingly decimated by a force they necessarily cannot confront alone. Highly mechanized, heavily subsidized foreign fleets off our shores necessitate a change in our romanticized notions of the U.S. fishermen as successfully plying their trade against overwhelming odds. The industry is no longer successfully competing against these manmade odds; and in the end, the international community, as well as our domestic industry, will be the losers if effective management programs are not soon instituted.

Of equally significant international concern is the depletion of some species of fish beyond their optimal yields, even under existing bilateral and multilateral agreements. This is seriously threatening the ability of species to reproduce at harvestable rates. Other species are underutilized and need proper management and marketing support so that the resource that we have may be more fully and beneficially utilized.

Finally, it should be emphasized that S. 961 requires the establishment of just such fisheries management programs, primarily through regional councils representing the States which have such a considerable stake in enactment of this bill. **[Secs. 2; 102; 301; 302; 303; 304; 305]** S. 961 is not a simple assertion of limited jurisdiction over our fisheries resources; enactment of the bill also requires that we assume the responsibility of managing and conserving those resources for the future. This responsibility is an important one, and one which is going to require the maximum cooperation of our fishermen, of other segments of the industry, and those involved at all government levels. That such cooperation can take place is again made apparent in the article which I cited earlier from the Wiscasset newspaper, and extended fisheries jurisdiction will give real force and effect to the limited management efforts now underway.

It will not be an easy task to fulfill the responsibilities assumed under this bill, nor do I expect it to be a noncontroversial effort. But it is a task which should begin now after the several years of delay and

apparently unwarranted optimism as to the date of conclusion of international negotiations. I look forward to the expeditious passage of this measure.

Mr. President, I ask unanimous consent that the article by Ted McClellan be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

SHRIMP FISHING CLOSURE SET FOR APRIL 15

(By Ted McClellan)

New England Marine Fisheries officials and scientists from Maine, Massachusetts, and New Hampshire are treading the delicate path between insuring that shrimp fishermen make a liveable income on the one hand and that on the other, the shrimp population can grow to provide a lasting resource for the area.

To accomplish that, they've ordered a closure on shrimp fishing beginning April 15 after the normally good winter season ends. It is hoped by those involved that the fisherman can still meet their market demands, while also protecting the declining stocks of shrimp.

The species population has been declining ever since the "good days" back in the late sixties when over 31 million lbs. were caught in the Gulf of Maine area. Last year the catch was down to about 12 million lbs. and some experts predict that this year there are only 10 million lbs. of live shrimp in the entire population.

Biologist Ron Rinaldo of Boothbay Harbor's Bigelow Lab was one of several scientists, who warned if something wasn't done soon, shrimping would cease as an industry within three years.

Last summer an abbreviated closure lasted from June until September and received mixed reviews. Most agreed it was too short to have a lasting effect.

Rinaldo, who chairs the scientific advisory committee to the State-Federal Northern Shrimp Management Program, stated this week, that the forthcoming closure to last for an indefinite time possibly the rest of the year was a "good compromise agreement."

His committee had earlier recommended stronger measures including imposing a 5 million lb. yearly quota, a figure which would stabilize the shrimp population, but not necessarily let it grow. To do that, Rinaldo says, the quota figure would have to be even lower.

The plan was vetoed, however, because enforcement of a quota system is virtually impossible in the huge Gulf area. The three states marine resources departments don't have the manpower or the craft to do the job.

Rinaldo approves of the closure and commented, 'It's a step in the right direction'. There must be some form of management over the exploited species.

In an allied move, enforcement of new laws, that increased the mesh width on shrimp nets from 1½ inches to 1¾ inches, began January 1. The increase allows smaller shrimp to escape and thus helps in building up the stocks. The enforcement had been postponed since last year because that size mesh was scarce in some parts of New England. Many Maine shrimpers had already begun using the larger width mesh and the effect of the move here is minimal.

As the shrimp season progresses and the closure begins, the Department of Marine Resources 80 foot research vessel, the Challenge, will be taking samples from selected fishing spots and compiling a population index of the catch.

Shrimp after about 4 years turn, through a series of mutations, from male to female and then spawn. Scientists are concerned that if too many immature males are caught, as is the case now, the future for the fishery would remain in doubt.

The Bigelow Lab will also be checking the composition of catches at local processing plants.

Many area shrimp fishermen have indicated that because of the bleak prospects, they won't be going after shrimp at all this season.

Rob McLellan of Boothbay Harbor, captain of the 73 foot dragger, Miss Paula, is one of these and has rigged his boat with special nets to pair trawl for herring.

At the Bay Fish Co., a local shrimp processor, owner James Genovese indicated that only one small boat from his dock was going out after shrimp. He described

the catches thus far in the season as 'way below' previous years, adding that with some species of groundfish going for the high price of \$1.10 a lb., fishermen have no incentive to catch shrimp, which earns them 26 cents a lb. (raw).

As far as the closure, Genovese feels it couldn't hurt things, because the catches are so bad now.

His opinion was matched by another processor, James Emerson of Maine Coast Seafoods.

'It's hard to say,' he noted, 'but I think it'll do some good.'

At the moment no boats from the MCSF dock are out after shrimp, but several will be as soon as the weather clears.

Emerson is not bitter about the closure and states, 'Fishing has got to be controlled. What happens if the day comes when there's nothing, nothing at all out there. Then what are we going to do.'

JANUARY 19, 1976

The PRESIDING OFFICER. There being no further morning business, under the previous order, the Senate will now proceed to the consideration of the unfinished business, S. 961, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 961) to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

Mr. MAGNUSON. Mr. President, once again, today, the Senate is considering legislation for the conservation of U.S. coastal fisheries. S. 961, the bill before us now, is a marked improvement over the bill approved by this body in 1974 by a vote of 68 to 27.

The bill has the following major features:

It establishes a 200-nautical mile fishery conservation zone off the coasts of the United States, on an interim basis: [Secs. 101; 401]

It asserts U.S. management jurisdiction over anadromous species of fish spawned in U.S. waters throughout their range, on an interim basis: [Secs. 2(b)(1); 102(2); 401]

The jurisdiction features of the bill terminate when and if a law of the sea treaty enters into force: [Sec. 401]

It reserves available catch for U.S. fishermen and authorizes foreign fishing for any surplus: [Secs. 2(c)(4); 201(d); 303(a)(4)(B)]

It sets a firm ceiling on all fishing effort at sound conservation levels: [Secs. 2(b)(4); 201(a); 301(a)(1); 303; 304; 305]

It encourages international agreements to solve mutual fishery management problems between nations: [Secs. 2(b)(2); 201; 202]

It creates a national fishery management program for all fish resources subject to U.S. jurisdiction: [Secs. 2(a)(6); 2(b)(1); 102; 301; 302; 303; 304; 305] and

It provides the enforcement surveillance and penalty authority necessary to implement the act. [Secs. 308; 309; 310; 311]

This bill gives us a dual opportunity. First, it allows the United States to manage the foreign fishing effort it has not been able to control through international agreements. [Secs. 2; 102; 201] Second, S. 961 creates a national management program, centered at the regional level, for rational management and conservation. [Secs. 2(a)(6); 2

(a) (7); 2(b) (4); 301; 302; 303] With this bill, we have the best chance ever to reverse the trend of decline now prevalent in most of our fisheries. This bill will also assure our coastal fishermen a better economic future.

In the last several months, since S. 961 was favorably reported by the Commerce Committee, a battle of facts has been waged by those who oppose the bill and those of us who have worked on this legislation for over 2 years now. But upon close examination, I believe my colleagues will see the subterfuge of the opposition. By taking statistics out of context, by withholding information, by painting an overly optimistic picture, the Department of State and others have sought to show that our fisheries are not in trouble. But they know that our fish stocks are in serious trouble and need protection from further overfishing. And the Department of State knows that they failed to do the job of negotiating meaningful treaties for fishery conservation in the past. That is one of the reasons why we are here with this bill today.

It is a fact that the Alaska pollack, the Pacific ocean perch, the Pacific hake, the haddock, the yellowtail flounder, and others are depleted due to foreign fishing. It is also a fact that existing treaties will not end overfishing or allow these stocks to rebuild so that they may provide a maximum sustainable yield. It is also a fact that the U.S. catch in many important coastal areas is declining or is below the catch of just 10 years ago.

We cannot now control foreign fishing—not through international agreement, not in any effective way. Our own fishermen rightly object to being tightly regulated while foreign vessels do what they wish. S. 961 will change this. [Secs. 2; 101; 102; 201] The United States will have the superior bargaining position and will no longer “cave-in” to treaties which institutionalize excessive foreign fishing.

The significant accomplishment which is now in S. 961 is title II, the national fishery management program. [Secs. 301; 302; 303; 304; 305] Provisions under this title will, for the first time, create a national management program for the conservation of our fishery resources. Last year during debate over the predecessor bill to S. 961, several Senators criticized the bill because it did not contain the kinds of conservation measures which would be needed to manage fishery resources which would come under our jurisdiction.

Consequently, this year the Commerce Committee worked hard in obtaining the title II provisions. New ground had to be plowed. To assist our efforts, I called together a fishery management workshop and invited representatives of the fishing industry, state fishery experts, and others interested in fishery management. Out of that workshop came the provisions which are now in title II of S. 961.

The bill creates semi-independent regional fishery management councils to draw up management plans and to recommend regulation for the management of fisheries within their regions. [Secs. 302; 303] Recommended management regulations are sent to the Secretary of Commerce for his evaluation. [Sec. 304] If these measures are consistent with specific management standards contained within the act, then the Secretary must promulgate them. [Sec. 305] If, however, the Secretary determines that they are not so consistent, or that they create a violation of existing law, then he returns them to the councils for

further work. [Sec. 304] If the councils fail to make the necessary changes, the Secretary of Commerce then would go forward with the regulations. [Secs. 304; 305] However, we feel that use of the veto by Secretary of Commerce would be rare and that for the most part, primary management decisions would be lodged in the regional councils. [Secs. 302; 303; 304; 305]

The councils themselves would be made up of representatives of the various States in the regions designated. [Sec. 302] We have developed a mechanism whereby the Governor of each State would recommend those to be placed on the councils. [Sec. 302] The President would appoint them with the consent of the Senate. [Sec. 302] This, we believe, will thus create a high-level panel of qualified individuals who will make management decisions based on the best information possible and on the standards set forth in the act. [Sec. 302]

As is evident, we have attempted to balance the national perspective with that of the individual States. [Secs. 2; 301; 302; 303] We firmly believe that this institutional arrangement is the best hope we can have of obtaining fishery management decisions which in fact protect the fish and which, at the same time, have the support of the fishermen who are regulated. These provisions are greatly needed to straighten out our often confusing present management program. I believe these provisions are imperative for the conservation of our many declining fishery resources.

Mr. STEVENS. Mr. President, today the Senate will consider S. 961, the Magnuson Fisheries Management and Conservation Act of 1976. This legislation is of critical importance to the Nation's fishing industry. Domestic stocks of commercial fish will be destroyed through the poor conservation practices of foreign high seas fishing fleets unless they are afforded the protection which a 200-mile contiguous fisheries zone offers. [Secs. 2; 101; 102]

Mr. President, we consider this legislation at a time of critical importance to the development of international ocean law. Within the next few months the United Nations Conference on the Law of the Sea will again meet in an attempt to reach an international consensus on ocean law which will shape the future of ocean development. I must report, however, that the prospects of resolving the disputes between the nation state parties participating in that conference are not good. The delegates must resolve some 115 areas of disagreement.

The most contentious of these issues arise from attempts to establish an international regime to control the development of deep seabed ocean mining. Many of us who have studied the progress of the United Nations Conference on the Law of the Sea over the last decade believe that it will take many years for the disputed aspects of the future laws governing deep seabed mining operations to be resolved. I do not mean to be critical of the conference when I state that. Work of such complexity and importance should be resolved slowly and carefully. There is too much at stake to do otherwise.

The United Nations Conference on the Law of the Sea is, however, also responsible for creating a set of international laws regarding conservation of the living resources of the ocean. It is in regard to the living resources of the oceans that expediency is required. I need not, for example, fully reiterate to my colleagues here in the Senate the

depleted state of the coastal and anadromous species of fish found off of this country. These stocks, which represent a great renewable resource of protein, are on the verge of being irreparably destroyed. The activities of superefficient foreign high seas fishing fleets have in fact reduced the biomass of fish in the North Atlantic by 50 percent. Some 14 species of commercial fish found in both the Atlantic and/or Pacific are listed as depleted. Mr. President, it is obvious immediate action is needed to save this valuable resource.

We can now see the quagmire which entraps the United Nations Conference on the Law of the Sea. The conference must act immediately to save the living resources of the oceans. Yet, the conference cannot act on the issue of deep seabed mining without many years of further intense negotiations. Should the conference resolve itself prematurely in order to protect the living resources of the oceans, it might well commit errors in the resolution of deep seabed mining issues that would plague the future of that industry for decades.

Since a treaty concerning the living resources of the ocean cannot be separated from a treaty governing the mining of deep seabed resources, the conference delegates will be put in the unfortunate position of having to sacrifice one resource for the other. S. 961, the Magnuson Fisheries Management and Conservation Act provides a reasonable alternative to this paradox.

The issues regarding the living resources of the oceans have, by and large, been resolved. We have embodied in S. 961 a fisheries regime identical to what most students of the United Nations Law of the Sea Conference believe will ultimately be in the final form of the Law of the Sea Treaty concerning living resources. By enacting S. 961 into law we will have alleviated the necessity for the Law of the Sea Conference to prematurely sacrifice U.S. interests in the deep seabed mining area in order to conserve the ocean's living resources. With the knowledge that the living resources of the high seas are adequately protected the delegates to the United Nations Conference on the Law of the Sea can take the needed time to effectively resolve the complex issues regarding deep seabed mining.

Mr. President, I would urge each of my colleagues to support S. 961, the Magnuson Fisheries Management and Conservation Act. This legislation is a vitally needed conservation measure. It not only controls foreign fishing activities but will place the living resources of the oceans under comprehensive management for the first time. [Secs. 2; 102; 201; 301] S. 961 is needed not only for the protection of U.S. interests in deep seabed mining, for without this legislation the delegates to the United Nations Conference on the Law of the Sea will feel pressured, out of deference to conserve the ocean's living resources, into prematurely concluding that conference.

Mr. President, S. 961 presents us with a solution whereby we can protect the living resources at the earliest possible date yet allow the conference sufficient time to adequately resolve the problems of a deep seabed mining regime.

Mr. MAGNUSON. Mr. President, this legislation was pending when we recessed on December 19, and it is now before us. It is still on the calendar as the pending order of business.

Due to the fact that a number of Senators are not here yet, which is amply evidenced by the late quorum call and the live quorum, we

thought on this particular bill, in which there are many Senators who have an interest one way or another, we do have several technical amendments which I have looked at, the distinguished Senator from Alaska (Mr. Stevens) has looked at, and we thought today we might be able, in order to save time, to dispose of these so-called technical amendments.

The Senator from Alaska is at the desk and we have both looked them over. I do not think there will be any objection to them. They are merely perfecting amendments to the bill and we thought we would get rid of them today so that we could proceed tomorrow with one or two so-called major amendments to the bill and see how far we progress tomorrow on the bill.

After the technical amendments, the Senator from Washington will suggest that the leadership recess the Senate until tomorrow, which I believe they plan to do, if we can get rid of these technical amendments. We have looked over the amendments of the Senator from Alaska and have made some minor modifications. They do not affect the main thrust of the bill one iota but make it much more readable and perfect its provisions.

I will yield to the senior Senator from Alaska to present his amendments.

Mr. GRAVEL. Will the Senator yield for a question prior to that?

Mr. MAGNUSON. Yes.

Mr. GRAVEL. If the amendments to the bill are to perfect it, as the Senator states, the Parliamentarian tells me that these sections may not be amendable again. As I recall the practice, it has been that after the bill has been discussed and amended, at the end the staff prepares a whole bevy of cleanup amendments, so to speak, or technical amendments, and those are just passed with no objections at all. The difficulty now is, with technical amendments the bill could be peppered so there would be no way in a legislative fashion to amend the bill substantively after it has been corrected technically.

Mr. MAGNUSON. The Senator is correct. It is true that normally we go through introductory remarks on a bill and then we take up perfecting amendments. That happens on every bill that is somewhat complicated and of a major nature.

I surely would ask unanimous consent that if we pass these technical amendments today, in no way, in parliamentary terms, will passage prejudice anyone's right to amend the section that they amend today.

The PRESIDING OFFICER. Does the Senator from Washington include in his unanimous-consent request that these amendments be considered as original text?

Mr. MAGNUSON. Yes.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

The clerk will report the first committee amendment.

Mr. STEVENS. Mr. President, I ask unanimous consent, in view of the fact that those are the Armed Services Committee amendments, that the committee amendments be held over until tomorrow and that we be permitted to proceed with these technical amendments from the Commerce Committee at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, we have a series of technical amendments.

First I would like to call up——

Mr. GRAVEL. Will the Senator yield for an inquiry?

Mr. STEVENS. I yield.

Mr. GRAVEL. Will the Senator yield that we have copies of them and I can follow along?

Mr. STEVENS. I will state to the Senator that they are on his desk, but in two instances we do have a revision. I would be happy to see that the staff gives the revision to the Senator.

AMENDMENT NO. 1158, AS MODIFIED

Mr. STEVENS. Mr. President, I call up amendment No. 1158 and ask unanimous consent to amend it so that it reads as I am sending the modification to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska proposes an amendment No. 1158, as modified.

The amendment, as modified, is as follows:

On page 38, line 9, after the word "authority", but before the period, insert the words "in the manner provided for in title II of this Act". [Sec. 101]

On page 38, line 19, after the word "States", but before the colon, insert the words "in the manner provided for in title II of this Act". [Sec. 102(2)]

Mr. STEVENS. Mr. President, the purpose of this amendment is to make certain that the jurisdiction of the United States over anadromous species is consistent with title 2 of the bill. Its purpose is technical in that if the Senator will look at page 65, section 205 of this bill he will see it provides that—

Nothing in this act shall be construed to extend the jurisdiction of any State over any natural resources beneath or in the waters beyond its seaward boundaries or to diminish the jurisdiction of any State over any natural resources beneath and in the waters within its boundaries. [Sec. 306]

The intent of this amendment is to make certain with respect to anadromous species, and with particular reference to our salmon off the coast of Alaska, the intent of the bill applies to an anadromous species as set forth in section 205. I have revised this amendment in accordance with the suggestions of our chairman and the committee staff. I am happy to answer any questions about it. [Secs. 102(2); 306]

The existing language on page 38, line 23, does have a possibility of being interpreted contrary to the purpose I have just stated. That is why it is a technical amendment to insure that the intent of the committee is carried out. [Sec. 102(2)]

Do my colleagues have any questions concerning this technical amendment?

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. GRAVEL. The amendment given to me was an amendment to page 38, line 9. [Sec. 101]

Mr. STEVENS. That is the suggestion that it be inserted there. It is substitute for the original amendment which applied to page 38, line 23. The amendment I have submitted is a substitute for the printed version of amendment 1158. [Sec. 102(2)]

Mr. GRAVEL. It says in the manner provided for in title II of this act. What is title II?

Mr. STEVENS. I just read the provisions of section 205 on page 65 [Sec. 306] setting forth the provisions of title II which apply to this issue. What it says, in effect, is that nothing in this act is to enlarge or diminish the jurisdiction of the States within the 3-mile limit. This amendment is technical to make sure that same principle applies to anadromous species so that the State's jurisdiction over salmon within its 3-mile limit is preserved as it is today and is not to be affected by this bill. That was our intent. [Secs. 102(2) ; 306]

Mr. GRAVEL. What is the status up to the 12 miles?

Mr. STEVENS. The contiguous fisheries zone is currently under the jurisdiction of the Federal Government, but there are no comprehensive fisheries management regulations that apply in that area now. They will be promulgated by the Fisheries Management Councils out to 200 miles. [Sec. 302] The areas between the 3-mile State limit and the 200-mile limit would be within the jurisdiction of the Management Council. [Sec. 302]

Mr. GRAVEL. In the State of Alaska, the salmon fishing mostly takes place within the 12-mile area. That is presently within State jurisdiction.

Mr. STEVENS. No.

Mr. GRAVEL. The regulation of the salmon fishery of Alaska is primarily handled by the State at the present time, is it not?

Mr. STEVENS. And we have another amendment to try to insure that that continuity is preserved. But that is not correct. The State's jurisdiction ends at 3 miles. I might say that that issue is in litigation right now in terms of assertion of jurisdiction beyond 3 miles. I certainly would not want to create any new law, but the State does challenge that position in terms of some species.

Mr. GRAVEL. Then in a de facto fashion the State of Alaska is presently exercising its authority over the fisheries within 12 miles, is it not?

Mr. STEVENS. I will say to my colleague that as to Alaskans, the State of Alaska does exercise that jurisdiction. It is contested beyond 3 miles as to non-Alaskans. Since most of the fishing that we have in our State is in fact directed at salmon and since most of the target stream areas of that fishery are in fact within the 3 miles, the State already has control over the majority of salmon fishing activities within the State. Some salmon long-line trawlers, however, are outside the 3 miles.

Mr. GRAVEL. Would not this matter come into conflict between the Federal and the State authorities, and should not that be resolved in this legislative process here?

Mr. STEVENS. We are not trying to resolve that. We are trying to reassure the States that nothing in this act is intended to take away from the State any jurisdiction it has now. That is what section 205 says. It says nothing is going to enlarge or diminish the jurisdiction of any State over its natural resources beneath and in the waters within its boundaries. [Sec. 306]

Mr. GRAVEL. Why, if the committee felt that there was efficacy in leaving the 3-mile area in this case, where we take most of our Alaskan fish, why did the committee feel that that area should be delineated

to have it under State jurisdiction, and then the 12-mile area not be under State jurisdiction? Why did not the committee go ahead and correct that, establish uniformity, and get the whole issue out of the courts? **[Sec. 306]**

Mr. STEVENS. This bill will settle that because the jurisdiction beyond the 3 miles, if this bill passes, is in fact conferred on the Fisheries Management Councils, which in the State of Alaska would consist of nine members, five of whom would be Alaskans. Alaska is the only State so affected by this bill, because we are the only State which has just one council. **[Secs. 302; 306]**

So this would resolve the problem the Senator is addressing. We are trying to make sure, in this technical amendment, that no one can look at the provisions of title I and say that, this changes existing State jurisdiction with regard to anadromous species. This amendment is intended, with regard to anadromous species, to preserve the State jurisdiction as it now exists. **[Secs. 102(2); 306]**

Mr. GRAVEL. I think we will have trouble here as we pass in the night, but if this legislation is going to confirm the authority of the Federal Government in the 12-mile area, and leave in the hands of the State—I pose that as a question: Does it leave in the hands of the States that 3-mile area? Is that strictly a fact? **[Sec. 306]**

Mr. STEVENS. That is correct. It does not change anything with respect to State jurisdiction within the 3-mile zone **[Sec. 306]**; it creates a new management entity within the 197-mile area, which is in fact oriented toward local government and not the Federal Government in the first instance, because Fisheries Management Council members are nominated by the Governor. **[Secs. 302; 306]** That is, they are suggested by the Governor, nominated by the President, and confirmed by the Senate; but they represent a regional concept rather than a State or Federal concept. **[Sec. 302]**

Mr. GRAVEL. I appreciate that, but my query goes to this: Why do we, in setting up the management concept, draw an arbitrary line between 3 and 12 miles, and say this belongs to the State, and they shall manage it through these regional councils. How can you have efficient management it, and the rest belongs to the Federal Government and they shall manage it through these regional councils. How can you have efficient management if you have a dichotomous situation, where basically, with salmon, my colleague knows as well as I you should be able to regulate them for thousands of miles? But what the Senator is now telling me is that we are going to have a Federal program which deals with the 12 miles and a State program which deals with the 3 miles. **[Secs. 302; 306]**

Mr. STEVENS. No. I have not mentioned 12 miles. My colleague has talked about 12 miles. We are dealing with 197 miles. The 12-mile line is obliterated. **[Sec. 306]**

Mr. GRAVEL. Fine, whatever happens. But you are still drawing a line between the 3 miles, and saying that is State waters, and in our case that is where we catch most of our salmon. How can the Federal Government claim it will have an impact on our salmon fisheries when most of them are now within the State boundaries? **[Secs. 102(2); 306]**

Mr. STEVENS. Let me state that the Submerged Lands Act drew the line at 3 miles. That is the old tidelands fight, and we are not changing

that. What we are saying is that with regard to anadromous species, the State's jurisdiction is now preserved. [Secs. 102(2) ; 306]

If my colleague will bear with me, we are going to propose other amendments, which will assure there is no conflict of management regulations throughout the territory of anadromous fish. It is my hope that we will go as far as Congress can possibly go to assure that with a State such as Alaska, where one State is involved with the resource, that the management councils will use State law to the maximum extent possible, but in any event if there is a conflict it will be worked out by the regional council and not by the Federal Government. That is what I hope we can agree upon. Alaskans represent a majority of the members on the North Pacific Fisheries Management Council. The same thing would be true with regard to the other councils; the majority of them will be local representatives of the States within the region. Fisheries management disputes will not be settled here in Washington; they will be settled in the regional council if there is a dispute between the States affected by the 197-mile fisheries zone. [Secs. 102(2) ; 302; 306]

Mr. GRAVEL. But are we not setting it up for a dispute, if, as the Senator says, the States will have total power over the waters and whatever is in the waters, fish or what have you? [Sec. 306]

Mr. STEVENS. That is the law today, and we have no intent to change the 3-mile limit. [Sec. 306]

Mr. GRAVEL. But I just wonder about the consistency of the committee. If they are going to leave a 3-mile area or region around our country, and say that is State jurisdiction, and from thence forward to the 200 miles it will be Federal jurisdiction, do we not set up a mish-mash of inconsistencies that will really foster disagreement, conflict, and litigation? [Sec. 306]

Because if we get various economic groups within a State, they will be prone, if they cannot get the ascendant position of influence, to move to another area to try to protect themselves, and then they will be set for quarrels over their various legal positions. It is like saying we are going to create legislation for cities and States, but inside a State we are going to create another State. That is essentially the way I see this, though I have faith that the committee is going to come forward with other amendments. [Sec. 306]

Mr. STEVENS. If the Senator is going to change Section 205. [Sec. 306] we suggest he offer an amendment. The amendment now before us is technical and states that whatever applies to title II applies to the fishery boundaries enunciated in title I. [Secs. 101; 102; 103; 306]

This is a technical amendment to assure that the bill is internally consistent. I suggest the Senator direct his attention toward section 205. [Sec. 306] which preserves the existing circumstances. This assures that the present situation regarding State jurisdiction will continue to exist regarding anadromous species and migratory species. [Secs. 101; 102; 103; 306] All we are saying in this amendment is that this bill is not intended to amend the Submerged Lands Act regarding the jurisdiction conferred on the States—any State—by that act. We are preserving that 3-mile jurisdiction. [Sec. 306]

If the Senator will be patient with us, he will see that the management council concept will provide the coordination between the State

and the Federal interests and the Senator has just indicated are in conflict. That conflict can be eliminated through the regional councils. **[Sec. 302]**

Mr. GRAVEL. The Senator mentioned the Submerged Lands Act. That just deals with oil and minerals, does it not?

Mr. STEVENS. No, no.

Mr. GRAVEL. Well, what?

Mr. STEVENS. That is a jurisdictional act. It states that the seaward boundaries of the States are 3 miles.

Mr. GRAVEL. So that is the intent of this legislation when the Senator has it designed and engineered as he feels is proper. My question now is, will the Federal Government or will these regions have definitive control over the area of water? **[Sec. 302]**

Mr. STEVENS. There is no control over water. This is controlled for conservation purposes over the water column the fisheries, and other living resources under the sea. **[Secs. 101; 102; 103; 306]**

Mr. GRAVEL. That is what I mean. Will the regions control the water column and the living resources in that water column within 3 miles? **[Secs. 101; 102; 103; 306]**

Mr. MAGNUSON. No.

Mr. STEVENS. No.

Mr. GRAVEL. No. So the Senator is leaving a situation, and, although he may consider this a technical amendment, it only brings to the fore a pitfall in the bill which I think is quite serious. That is, for what do we think that we are legislating? We think we are legislating from the coastline of this country up to 200 miles, but in point of fact we are not. We are going to have one jurisdiction for 197 miles, which is a Federal jurisdiction, but we are going to have a State jurisdiction within 3 miles. The fish obviously swim through both jurisdictions. **[Secs. 101; 102; 103; 306]**

As a lay person, that seems to me to create an area that is going to be fraught with difficulty, and we should anticipate this and do something about it.

What has the committee chartered to solve this problem in this legislation?

Mr. MAGNUSON. The committee has a target to do exactly what the Senator from Alaska suggested. We are suggesting that the 3-mile limit which is subject to the—— **[Sec. 306]**

Mr. STEVENS. Submerged Land Act.

Mr. MAGNUSON. Yes, the Land Act, remain as it is. **[Sec. 306]**

Between 3 and 12 miles there has been some dispute. There is a dispute in my State about it. But we say that the States should be exactly as they are in regard to the 3-mile limit. **[Sec. 306]** The bill then takes away any doubt as to State and Federal jurisdiction beyond the 3-mile limit and sets up these councils and boards which will take care of disputes. **[Secs. 302; 306]** It removes all of these things the Senator is talking about if he believes in the concept of 200-mile limit. **[Secs. 101; 102; 103; 302; 306]** If he does not believe in that, he can bring up all kinds of things. He can bring up technical amendments: What about the 12 miles and 15 miles or the 3 miles? We do not change that. If he does not believe in the 200-mile limit and the conservation, then I suppose he could talk about it. But this removes any doubt about situations beyond 3 miles.

In the case of Alaska, I should think that under the bill the 197 miles, as far as Alaska is concerned, would be almost in complete control of the Alaskans themselves, working with the Federal Government under the formulas and procedures in the bill. [Secs. 101; 102; 103; 302; 306]

So there is no argument about the 12-mile limit. That is out. We are dealing now with what do we do with the 197 miles. [Sec. 306]

If we passed the 200-mile limit bill, these are the procedures that have been set up, but we are trying to protect the right of the States under the laws that now exist and as to what jurisdiction they legitimately claim in the 3-mile limit. [Sec. 306]

It will clear up a lot of problems on the coasts of Oregon and Washington as far as we are concerned, because now there is some confusion concerning who has control of the 9 miles and who steps in. There is confusion as to who calls upon enforcement even of the 12 miles? This removes all doubt as to that. [Sec. 306]

But the Senator has to believe in the concept that we are going to control 197 miles of our own coastal zones. [Secs. 101; 102; 103] If he does not believe in that, then he can have amendments as to who is going to handle it up to 15 miles or who is going to handle it within 3 miles. Are the State claims right or are they wrong? We wish to protect the right of the States to do what they think is right under the law which now exists and within the 3 miles. That is all this does. [Sec. 306]

MR. STEVENS. That is a fishery conservation zone. I am sure my colleague is not suggesting we federalize our 3-mile area. [Secs. 101; 306]

MR. GRAVEL. No. In fact, what I am suggesting is that maybe we are federalizing the 197 miles and throwing the State a sop of 3 miles. What I am suggesting and what I wish to pursue is this. Let me just state I am for the concept of 200 miles. I wish to see us have it in Alaska. I wish to see it under the management of the State government, because I think they have done a better job than the Federal Government has ever thought of doing in that area, and I shall have legislation to try to bring that about. [Secs. 101; 102; 103; 306]

If the Senator is talking about the States having the mineral rights of the 3-mile limit, fine, but if he is telling me that we have a conservation piece of legislation and that the State is going to make decisions on conservation within 3 miles and the Federal Government is going to make decisions on conservation between 3 miles and up to 200 miles, meaning 197 miles. [Secs. 101; 102; 103; 306] and the fish, particularly anadromous fish, pass through both areas, then I am saying that what we have set up is a diabolical situation of conflict between the State and the Federal Government, and we cannot pass it over by saying: "Well, we are going to have regional councils. [Sec. 302] We are going to have representation from the State, particularly Alaska or the State of Washington or California." [Sec. 302]

What I am saying is that we will have economic interests within those States that may be quarreling. If we cannot succeed in one legal area to have them work their will they will move into another area, and then we shall have a conflict. We shall have a conflict between the forces that will have control of the governmental processes involving 3 miles and those that have control of governmental processes controlling the 197 miles. Then they will be in conflict. We will

find ourselves in litigation, and we will have one heck of a mess on our hands. [Secs. 101; 102; 103; 306]

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. GRAVEL. Let me clarify this one more time. I wish to make it clear that I am for a 200-mile limit. [Sec. 101] I think it is in the best interest of conservation. [Sec. 101] If this bill is truly a conservation bill, then is there not any concern with what takes place within the 3 miles with respect to fish? [Sec. 306] How can we conserve salmon if when the fish swims through the 3-mile area they are caught and there is no escaping? How could this legislation claim that it is a conservation piece of legislation if it cannot address itself to solving a category such as that problem?

Mr. STEVENS. I wish my colleague would read section 206, Interstate Cooperation of Uniform Laws, and the goal of encouraging cooperative action. [Not incorporated into Public Law 94-265]

Mr. GRAVEL. I shall be happy to read it. I will read it right now.

Mr. STEVENS. Let me continue my thought. The Senator mentions the existing problem. If the Senator will look at section 205 [Sec. 306] he will find that it does not state what the seaward boundary is. If he wishes to make an amendment to put in seaward boundary of States 200 miles off the shore, he may do so. The Senator knows it will not pass and so do I.

S. 961 mentions the seaward boundary. [Secs. 101; 306] It leaves unchanged the definition of what is in fact the seaward boundaries of the State. [Sec. 306] As a practical matter, we are trying to help solve that problem, and have a provision in this bill which establishes a review panel [Not incorporated into Public Law 94-265] so that fishermen will not have to go to court in order to resolve jurisdictional disputes as they have had to do in the past. This is not a concept of litigation. It is trying to solve the jurisdictional problem the Senator mentioned. For species such as salmon, go beyond the existing limits of one jurisdiction into another, and, as a matter of fact, may go beyond into the third area of international jurisdiction. As a practical matter, to the extent possible, we will have uniform and consistent management. [Secs. 101; 102; 103; 306]

As I said we have another amendment coming which deals with the problem of trying to utilize the State laws to the maximum extent possible regarding any species that originates in State waters, and then goes outside of those waters. As the Senator knows it still is a technical amendment. As a matter of fact, I think the bill would be so interpreted without this technical amendment.

But the question was raised at the hearings and meetings we had in Alaska, and they wished a clarification to make certain that the language on page 38 was not a U.S. position of usurping the existing jurisdiction of the State of Alaska with regard to salmon. [Sec. 102(2)] There is no such intent. [Secs. 102(2); 306] This amendment is offered to reassure the people who raised that question that there is no difference between title I and title II with regard to the jurisdiction of a State within the 3-mile limit. [Secs. 101; 102; 103; 306]

I think the committee has been very direct and open about our intent not to disturb the coastal State jurisdiction within the 3-mile limit but to encourage the creation of regional councils which will, to

the greatest extent possible, extend State management concepts out to 200 miles. [Secs. 101; 102; 103; 302; 306]

With regard to other States my colleagues should take a look at New England, for example, where jurisdictional boundaries converge as they reach the edge of the 200-mile zone. It is a nice question as to whose State law would apply in that region. Further those fish not only go outside the 3-mile limit into the 197 miles, but also, they go into the jurisdiction of States on either side. That problem occurs not only on the east coast but is the existing situation in Oregon, Washington, and California for some species. We are trying to establish the principle of a single management concept for those species, and this is the best way to accomplish that end. S. 961 creates a council of those three States that would attempt to take the best of the respective State laws and apply them, with the hope that there will be intrastate cooperation, to the 197 miles outside of State jurisdiction. [Secs. 101; 102; 103; 302] This will provide uniform laws regarding the management of those species within the 3 miles.

I still think we are on the right track. This is a technical amendment. The Senator's objection is to section 205, [Sec. 306] not to this amendment. I presume that is the case.

We do not want a different concept applying to the salmon than applies to the halibut. This reassures the salmon people that we intend to follow section 205 with regard to anadromous species. That is all it does. [Secs. 102; 306]

MR. MAGNUSON. I say to the Senator from Alaska that we have been at this a long time. Over the past 6 years, we have probably had numerous workshops on this, calling in people from all segments of the fishing community. In this area, new ground had to be plowed, because domestic jurisdictional problems have plagued us in the waters between 3 and 12 miles. This is what has been recommended. All the fishery experts were unanimous that we had to plow this new ground with respect to the waters beyond 3 miles in a new 200-mile zone and work out with the States and all the people involved the rules which have to be promulgated by the Secretary. We cannot leave it as it is. [Secs. 101; 102; 103; 301; 302; 303; 304; 305; 306]

I believe that what the senior Senator from Alaska says is that we are trying to remove some of the problems that will exist if we do not have this bill, if nothing is done, or if no international agreement is made. We now have difficulties within the 12 miles, and they will remain if we leave it as it is.

We think the States have handled the 23 miles fairly well, and under existing law they are supposed to do so. The situation with respect to Alaska is a little more unusual than with most States in the Union, because there is not the problem of overlapping State lines.

But I know of no matter that these management councils must decide, that will be without dispute by somebody. I have dealt with fishermen all my life; and if you can get a unanimous-consent agreement in a fishery hall, whether it be management or union or both, I will put in with you. They are independent people, and they have their own ideas. But they all thought that new ground should be plowed particularly if we are going to pass a 200-mile-limit bill, and I think this is the sensible and practical way to do it. That is all this is about.

Mr. GRAVEL. I certainly have no objection to plowing new ground, and I think that is what should be done. But I would rather focus on what actually is being done. It can be called plowing new ground, but if it sets up a whole host of potential areas of conflict, we have not addressed ourselves to the conservation problem with respect to fisheries.

Mr. MAGNUSON. It will reduce conflict to a minimum. That is what we think.

Mr. GRAVEL. I understand that the committee would have that kind of possessive view toward its work.

However, my colleague commended to my reading section 206. [Not incorporated into Public Law 94-260] I read section 206, and I see nothing that solves the conflict. It is a short section:

The Secretary shall encourage cooperative action by the States and Councils for the management and conservation of coastal and anadromous species of fish and Continental Shelf fishery resources, and shall encourage, insofar as practicable, the enactment of improved and uniform State laws relating to the management and conservation of such fish.

I am not an authority on the English language, but I know what the word "encourage" means. What the word "encourage" means is that the Secretary does not have the power to effect. All he can do is ask or plead.

Mr. STEVENS. That is absolutely right. I am glad the Senator pointed that out.

Mr. GRAVEL. When the situation is in conflict, that is not a very strong tool to resolve the conflict.

What I am saying is that we are leaving in the hands of the Federal Government the conservation management of anadromous and other fish which are within 200 miles, which go beyond 3 miles, but are within 200 miles. So one area is going to be Federal domain and another area is going to be State domain, and they are both going to be doing "conservation." How can you have proper conservation if you have economic interests, as we all agree, that may differ as to what rewards they want to effect? How can you have a situation where you say this is conservation? [Secs. 101; 102; 103]

We could pass this measure, and a State—certainly, it would not be my State—could turn around and violate all those conservation practices, and the Federal Government could do nothing but twiddle its fingers. Where is the sense of that?

You cannot draw a political line in the water and hope that these fish are going to obey it or hope that people who make their livelihood there will have a unanimity of attitude at all times as to what conservation should be.

If it means my making a lot of money this year as opposed to your making a lot of money this year. I am more for my conservation approach than for your conservation approach, because my conservation approach is going to have the merit and the virtue of making me a lot of money as I conserve.

The Senator can speak of technical amendments all he wishes, but this is probably the only place we are going to address ourselves very pointedly to this issue.

Mr. STEVENS. We will focus in on that issue in just a minute.

Mr. GRAVEL. I do not know how more pointedly we can get to it. The Senator has made the admission that the State can manage its conservation within 3 miles. [Sec. 306]

Mr. STEVENS. With regard to that issue I suggest that the Senator take a look at my amendment No. 1302, which talks about fish off a single State. He will see that we are going to come directly to that issue. [Secs. 302; 306]

Mr. GRAVEL. Unfortunately, I am not privy to have read all the amendments the Senator has in his portfolio.

Mr. STEVENS. It is at the desk.

Mr. GRAVEL. All I know is what we have before us. What we have before us is the Senator's "technical" amendment, which will foster conflict for time immemorial. That is what we have before us—this little, old technical amendment that is going to create a quarrel between the Federal Government and the State government on fisheries as long as we are alive. [Sec. 306]

Perhaps the committee felt that they were addressing themselves to conservation, but I say to the committee, most respectfully, that perhaps they have not done the proper job on it. Perhaps they should look to the problem of controlling the waters for conservation purposes—not for oil or minerals, but her conservation purposes—right up to the shoreline. [Sec. 306]

In States such as mine, we would not mind that, so long as we had the implementive power to regulate the fisheries from their line to 200 miles, even with the approval of the Federal Government, because we have a good track record and we have a great deal of experience in Alaska. [Sec. 306]

My proposal—and I will have an amendment to this effect—is that the State of Alaska, using it as an example, would develop a plan such as we have for air, for environmental purposes. The State develops a clean air plan. It submits the plan to the Federal Government, and the Federal Government either approves or disapproves. If it approves, then the State implements the plan. If the State does nothing, then obviously the Federal Government has to come in and do the work. But we will do our work in Alaska.

I am suggesting that I do not want to see a situation that will guarantee future conflict. I want to see a uniformity of conservation practices within the 3 miles and outside the 3 miles, up to 200 miles; but I want to see them on a uniform basis, because I know they will work. [Secs. 301; 306]

I want to see a situation in which my State has the option to submit a plan to the Federal Government. If that plan is approved, that plan then will be carried out by the State government. If the State government does not do a good job in carrying it out, then the Federal Government—as is done with respect to clean air—can step in and see that they carry it out, even if they have to carry it out themselves. That is not too much to ask.

I do not think I have confused the issue. I have tried to state it as clearly as I can. I think that the merit of my proposal is that there is

not an arbitrary line at 3 miles, so that within 200 miles there is a 3-mile jurisdiction and a 197-mile jurisdiction for fish that swam both ways. [Secs. 101; 306]

Mr. STEVENS. Perhaps the Senator will recall the fishtrap argument, where the Federal Government believed that fishtraps were the most efficient and the best way to harvest fish. Let us assume that we come back to that point and we follow the Senator's procedure and the State presents a plan that says we are not going to allow fishtraps. The Federal Government says, "No, we are not going to approve that and we know more than you know about conservation, so we are telling you, from the shoreline out, we are going to allow fishtraps wherever they can be used."

The Senator is not really suggesting that, is he? Is he really suggesting that? Is he suggesting that to me?

Mr. GRAVEL. Let me suggest that my colleague is right. The way this thing is run and with his technical amendment, that is exactly what could happen.

Mr. STEVENS. Negative. Absolutely no way. We do not have to bring anything to Washington under the Submerged Lands Act. That is what the amendment says, we do not have to bring anything to Washington concerning anadromous fish within 3 miles. [Secs. 102(2); 306] We have set up a management council which is composed of people from the area—not from Washington. [Sec. 302] They are selected by the Governors of the States involved. [Sec. 302] They are urged to work out a management scheme for the 197 miles which, to the greatest extent possible, is consistent with what the State is actually doing within the 3-mile limit, without the consent of the Federal Government. [Secs. 101; 102; 103; 301; 302; 303; 306]

My colleague is suggesting that we are going to have to come, hats in our hands, to deal with what goes on within the 3-mile limit. Believe me, there is a lot more than anadromous species within the 3-mile limit. [Secs. 101; 102; 103; 301; 302; 303; 306]

Mr. GRAVEL. Nobody is going to have to come hat in hand, because what we are going to do is give the State 3 miles and they can do what they please, and give the Federal Government 197 miles and they can do what they please. [Secs. 306] That is the point I am making: that is a ridiculous situation to be in, to have two political entities that share power over water when we have fish that intermingle within those political entities. It does not make any sense. [Secs. 101; 102; 103; 301; 302; 303; 306]

Then when we pass that off as conservation, I do not understand it. I just do not understand.

The Senator brought up the fishtraps. I will give an example. Suppose there is a national movement that says we are going to harvest fish in the most efficient manner possible. We do not care about employment, we do not care about jobs, we do not care what effect they will have. We are talking about the gross national product, and the easiest and fastest ways to harvest fish is with fishtraps. So if we technically had that program in Alaska, outside of 3 miles around Alaska, one could have fishtraps. Inside the 3 miles around Alaska, we would feel

differently. So inside the 3-mile limit, we would be against fishtraps, but it would not do us any good because the fish would not come back to within 3 miles, because they would have all been caught in traps.

Mr. STEVENS. What entities would promulgate the regulations within the 197 miles off our State? It would be the North Pacific Fisheries Management Council composed primarily of Alaskans. [Sec. 302] The Senator keeps talking about the Federal Government. This is a regionalization of the 197-mile fisheries zone. [Secs. 302; 306]

Mr. GRAVEL. Who would appoint those Alaskans to the council? [Sec. 302]

Mr. MAGNUSON. The Governor. [Sec. 302]

Mr. STEVENS. He would select them, and if they were otherwise cleared, the President would submit their names to the Senate for confirmation. [Sec. 302]

Mr. GRAVEL. Does the Governor recommend or does the Governor appoint? Suppose the President does not like John Jones, whose name has been sent up by the Governor. Can he nominate Bill Brown? [Sec. 302]

Mr. STEVENS. No.

Mr. GRAVEL. So he has to go back to the Governor?

Mr. STEVENS. Right.

Mr. GRAVEL. So the President cannot appoint anybody, unless he is given the names by the Governor, to this council. [Sec. 302]

Mr. STEVENS. Right.

Mr. GRAVEL. Suppose the Governor, in the last 4 months of his term submits the names to the President and we get a new government administration. How does the present State government administration reconcile itself, if there is a radical change in policy, to the Federal administration, which has people of prior allegiance? [Sec. 302]

Mr. STEVENS. I did not know we are taking into account political considerations with regard to the conservation of fish.

Mr. GRAVEL. I think it is recognized, with mature government officials, that occasionally, some appointments are made on the basis of political party affiliation.

Mr. STEVENS. I do not know that that is so. Elmer Rasmuson, who has done such a great job in Alaska on the fisheries commission, was suggested by a Democrat, resuggested by a Republican, then again by a Democrat, now again by a Republican. We have not had political considerations affect this type of appointment, and I do not think the fisheries community would stand for it. We are talking about people who will promulgate regulations for a region. [Sec. 302] Up in Maine, we could have two or three States within the region. [Sec. 302] If political considerations enter into this process, I think there would be a real revolt. This is not something that is personal. These people are to represent the State and more particularly the fishing interests of the State with regard to conservation principles. [Secs. 301; 302]

Mr. GRAVEL. Let me state that these people will be representing economic interests. I have found economic interests to be partisan to the degree that there are people served by economic interests. So if we

have three people that will make money in this economic area as opposed to that economic area, they are partisan to the areas that they are concerned with. [Secs. 301; 302]

The Senator might say that it is pretty farfetched that we would see this radical change in policy. [Secs. 301; 302] Let me state that in Alaska we had overwhelming agreement for a proposed for limited entry. [Sec. 303] Now, scarcely 3 years later, it is receiving overwhelming reaction the other way, for change. [Sec. 303]

When we are dealing with conservation, we are not dealing with a positive science. We are dealing with an applied situation. All I am saying is that the facts have not been altered by the scenarios that we may want to develop with respect to the appointment process. [Sec. 302]

What the Senator is saying is that up to 3 miles, the State has responsibility for the conservation of fish. Beyond the 3 miles, it is within the Federal domain. Now, that is a conflict that should not have to exist. [Sec. 306]

If the Senator tells me, well, never mind, we do not have to worry, there is no conflict there if the Governor appoints—[Sec. 302]

Mr. MAGNUSON. Why should that be a conflict?

Mr. GRAVEL. It is a conflict. It is a conflict of law. A blind man could recognize that.

Mr. MAGNUSON. There is nothing but conflict if we do not do it.

Mr. GRAVEL. There is a State jurisdiction and a Federal jurisdiction. Why not have joint jurisdiction? [Sec. 306]

Mr. MAGNUSON. Why does the Senator not submit an amendment, then?

Mr. GRAVEL. I will submit an amendment that will give joint jurisdiction from the shoreline out. [Sec. 306]

Mr. MAGNUSON. Who is going to have it? The State? [Sec. 306]

Mr. GRAVEL. The State will have the primary responsibility, and will submit a plan to the Federal Government. Would that meet the approval of the chairman? [Secs. 302; 303; 306]

Mr. STEVENS. It would not meet my approval. I do not want to have to submit something to the Federal Government regarding the 3-mile limit. [Secs. 302; 303; 306]

Mr. GRAVEL. I am asking the chairman, would he be prepared to accept that approach? I am willing to accept it. We would have uniformity of jurisdiction. I am not splitting hairs on this. I know we can consider a technical amendment. All can see that there is a dichotomous situation right now. [Sec. 306]

Mr. STEVENS. Who would do it for Maine, New Hampshire, and Rhode Island? [Sec. 306]

Mr. MAGNUSON. This is not just a bill for Alaska. This is a bill for all the other States. [Sec. 306]

Mr. GRAVEL. I recognize that. The final authority would be the Secretary, under my proposal. He would be the one that would entertain the plans. [Secs. 303; 304; 306]

Mr. MAGNUSON. The Senator has it more confused than ever.

Mr. GRAVEL. No, it is very clear. All it states is that if you are a fishery State and want to submit a plan for conservation, go ahead and submit that plan to the Secretary and if he approves it, the plan sticks and then the State implements it. [Secs. 302; 303; 304; 305; 306]

Obviously, the Secretary is not going to approve a plan for the State of Maine which might be in conflict with the State of New Hampshire. The Secretary would say, "Hey, the State of Maine," and they have the regions set up. They have formed their little region. But Alaska is so big, we do not need a region. We are a region. We have been acting like a region. We have been acting like a region up to the 12 miles where we have legal authority, and I hope we can correct this legislation so we can continue to do it up to 200 miles. [Secs. 101; 102; 103; 306]

So I ask my colleagues, recognizing that they perceive as well as I do the very dangerous situation that exists in having a dichotomous legal authority, over 3 miles and 197 miles, that we lump those two areas together for the sake of conservation. That is the only thing that makes sense—lump those two things together and, then, accept this amendment that I have sent to the desk. It will be printed and the staffs will have a chance to assess it on the morrow and we can take it up at that time. [Secs. 101; 102; 103; 106]

Mr. STEVENS. Does my colleague want his amendment to be in title I or title II?

Mr. GRAVEL. I would rather have—my amendment goes to title II. It overlaps into title I.

Mr. STEVENS. This little amendment simply states that whatever happens in title II applies to title I. That is all this says. No one argues with it. It is technical. It provides very simply that title I and title II are consistent with regard to jurisdiction.

If the Senator wants to amend title II, he can offer an amendment. This is a very technical amendment.

Mr. President, I move the adoption of any amendment.

The PRESIDING OFFICER. The question is on agreeing to Mr. Stevens' amendment.

The amendment, as modified, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion was agreed to.

Mr. MAGNUSON. Mr. President, the Senator from Maine (Mr. Muskie) has a very abiding interest in this matter, and I would suggest, if it is agreeable with my colleagues, that since has has another engagement we allow him to present his matter at this time.

Mr. MUSKIE. I thank my good friend from Washington. I do appreciate this courtesy, and I also express my appreciation to the Senator from Alaska for his courtesy.

Mr. MAGNUSON. Before the Senator speaks, we have all been away for a while, but the Senator is familiar with the foreign fishing fleet digging up every lobster they can find off the coast of Maine in the last 2 weeks, is he not?

Mr. MUSKIE. I am very familiar with that.

Mr. MAGNUSON. The Senator has been up there.

Mr. MUSKIE. I have been there, and examining that kind of a problem in 40-below-zero weather is especially painful, may I say.

Mr. STEVENS. May I ask, is my colleague on a fishing expedition today? I understand he was going to go on a fishing expedition tonight. [Laughter.]

Mr. MUSKIE. I do my fishing on Wednesday night. I thank my good friend from Alaska.

Mr. President, we began a discussion of this legislation as the pending business before Congress adjourned in the first session, and I thought the issues were pretty well laid out at that time and that it is most appropriate we should take this afternoon to resurface these issues for the purpose of finally resolving this legislation.

As the Senate returns again to consideration of the Magnuson Fisheries Management and Conservation Act, we have before us at long last an opportunity to provide our fishermen the minimum support which a citizen would expect from his Government—the opportunity to pursue his livelihood free from the devastating intrusion of fleets from beyond our shores which he is powerless to challenge except through his elected government.

For years, our fishermen have been asked to wait, to be patient, to allow time for international agreements to stop the plunder of our fisheries resources. The result has been 22 international agreements, none of them enforced or enforceable, and a Law of the Sea Conference which holds little promise of even agreement, let alone implementation in the near future.

We now hear new promises from the administration of agreements to limit fishing activities by foreign fleets. But those agreements which have been reached offer no clear hope of reducing foreign fishing to levels which will permit the restoration of fish stocks. The quotas agreed to are higher than the U.S. negotiators were seeking and it is not clear that the ICNAF quotas provide real protection to the most threatened stocks in the ICNAF area.

There is little comfort for New England fishermen in quotas which permit foreign vessels to take “only” 70 percent of the fish within 200 miles of our shore.

It would be extremely optimistic to conclude that under existing agreements fish stocks in the Northwest Atlantic can be returned to the level which will produce the maximum sustainable yield, even assuming that the quotas will be observed. And this is most unlikely unless and until the United States assumes jurisdiction over the resource.

The interest of these foreign fleets in observing quotas is minimal as compared to their interest in exploiting the resource as rapidly and as completely as possible.

Each year the fleet of foreign fishing vessels off our shores increases. The Commerce Committee reported that in June of 1975 a total of 204 foreign fishing vessels were sighted off New England, an increase of 21 vessels over May 1975 and 45 over June 1974. Of the total, 160 ves-

sels were from the Soviet Union. My own conversations with Maine fishermen confirm that the foreign presence is increasing and that their activities are becoming increasingly intense. Maine fishermen continue to report gear and traps destroyed by intruding trawlers without any protective measures being available to the fishermen or, may I say, to their government.

In the face of this growing presence and with news of new shortages in Soviet grain production, we are asked by the opponents of this legislation to place our faith and trust for the preservation of our fisheries in voluntary compliance by nations whose past behavior, present needs and patterns of investments all indicate that they are bent on continuing to exploit these limited resources.

I do not believe this body will have to deliberate long to determine that such faith would be misplaced.

When we opened debate on this bill before Christmas, I drew my colleagues' attention to an article from the Boothbay Register of December 4, 1975. The simple logic in that article is compelling and irrefutable. To summarize it again, it points out that ICNAF quotas can only be enforced by the home country of a violating vessel. The most flagrant violators of ICNAF are the Polish and the Russians. Both countries require the maximum immediate catch. Both countries are increasing their investment in fishing fleets off our shores. In both countries the fishing vessels are government owned. In neither of those countries is it likely that a captain who violates ICNAF regulations will be punished by the government which employs him.

The final irony in the experience of some New England fishermen is that they must bear the burden of the violations by others as reduced quotas necessitated by foreign activities force curtailment of domestic fishing. Our own fishermen can look neither to government subsidies to help meet the competition nor to a benign enforcer who will look aside if these quotas are violated.

The 200-mile-limit bill would repair that situation by recognizing that the United States has the most direct interest in conserving the fisheries resources off our shores and permits us on that basis to move toward utilization of the species in a manner consistent with the best interest of our fleet and preservation of the resource. [Sec. 2]

Under this bill we would have the jurisdictional basis now lacking to make clear and timely management decisions about our fish resources. We could gather the appropriate data to make broad, long-term decision on management problems and, more importantly, we would have the authority to monitor and enforce fishing practices consistent with those decisions. [Secs. 2; 101; 102]

The opponents of this legislation, Mr. President, argue that unilateral action threatens our progress in international negotiations on fisheries and jeopardizes the entire Law of the Sea Conference, but this view ignores the specific language in the bill which honors existing agreements and calls for further negotiations to achieve consistency with our proposed extended fisheries jurisdiction. [Secs. 201; 202] That position also assumes—that position of opposition, Mr. President—incorrectly, that U.S. action would produce a reaction from

other coastal nations contrary to the manner in which these nations have reacted in the past and inconsistent with their perception of their own best interests as they have stated them at the Law of the Sea Conference. Opponents argue that the same nations which agreed to 200-mile limit provisions in the single negotiating text of the Law of the Sea Conference would, in response to our unilateral assertion of similar jurisdiction, abandon all previously negotiated fisheries treaties, abandon international negotiations, and set off individually to stake disproportionate claims of sovereignty over commercial and military traffic off their shores.

Mr. President, that is ridiculous. There is no reason to expect such a response and there could be no justification for such a response should any nation take that course. S. 961 is unrelated to commercial or military transit and in no way could another coastal nation justify expanded control over such traffic based on our actions in this bill in this area. [Secs. 101; 102]

In adopting the 200-mile fisheries management zone, Mr. President, we are not claiming a 200-mile territorial limit. [Secs. 2; 101; 102] There is no international threat of that kind implied by the bill. And we would not exclude other nations from our fish management zone. [Secs. 2(c) (4); 201; 202; 204; 303(c) (4) (B)]

But we would require other nations to abide by the rules we set up to protect our fish stocks. [Secs. 201(c); 204(b) (7)]

We hear optimistic predictions for the upcoming Law of the Sea Conference from those opponents who argue that we should wait—delay action on this measure until another round has adjourned. I, too, am hopeful, Mr. President, that the international negotiations will succeed and without delay, but I cannot reasonably predict—and neither can those most directly involved with the talks—that we will reach agreement this year.

And while we wait, the situation for our fisheries resources and for our fishermen worsens by the day. It is cruel and irresponsible for our Government to ask American fishermen to wait any longer. We have agreed to a compromise in the legislation before us which will allow conclusion of the March meeting of the Law of the Sea Conference before the 200-mile limit bill goes into effect. [Secs. 104; 312]

I take it that means however long it takes that March meeting to conclude its business. So that there is a real prospect to conclude agreement at the Law of the Sea Conference, whether that takes 5, 10, or 20 weeks. This bill gives them the opportunity to achieve that agreement. [Secs. 104; 312] But if they do not, then I think we can assume, as we correctly assumed in 1975 and as we correctly assumed in 1974, that agreement is not likely in this calendar year.

If we wait another 3 years on the promise of no more than a year's delay, as we did 2 years ago, then in 1978 we will still be debating this legislation on the floor, waiting for the optimistic prediction about the Law of the Sea Conference to come true.

Mr. President, I have been a delegate to the Law of the Sea Conference—I attended the first in Caracas, Venezuela, in 1974 with my

good friend from Alaska (Mr. Stevens), and we concluded from that exposure to the conference that they would not finish that year, and we were right. We concluded from that exposure to that conference that they would not finish in 1975, and we were right.

I happen to believe that one of the strongest impulses for agreement that we could create is the enactment of this bill which says to the delegates from the Law of the Sea Conference, "As soon as you have reached agreement, the legislation the American Congress has enacted will yield to your agreement." [Sec. 401]

I think that is the strongest impulse for constructive action that we could conceivably generate.

So Mr. President, we should not delay action on this bill. Passage of the bill would be the best sign we can give the world community that we are serious about protecting a major food source for the world. And if we do not give this sign we must expect failure again at the conference and perhaps the loss of our last opportunity to save many of the species of fish which are now threatened with extinction.

May I add this thought, Mr. President, that if we should fail to take this action we will have given a signal to those foreign fishing fleets which are now exploiting our fishery resources, and who now do so in utter disregard of the rights of our fishermen and the gear which they have placed in our territorial waters, the signal that we do not care to protect through the U.S. Congress. I, for one, will not participate in the giving of any such signal.

Mr. President, it is our responsibility to act on behalf of our citizens to protect this great resource. The foreign nations which fish off our shores have shown no indication that they will assume the responsibility if we do not.

May I add, Mr. President, that they could, knowing of the great concern in the Congress in behalf of our citizens, voluntarily restrict the activities of their fishing fleets in our waters to conform—to the conservation objectives which we are seeking to establish. They do not. And why not? Because they are going to exploit these resources as long as they can—as long as they can—and if they can persuade us to suspend action until the Law of the Sea Conference finally concludes an agreement on that wide range of issues far beyond the 200-mile limit which stands in the way of agreement, then what they will have done is create a field day for themselves for as many years as it takes to resolve the Law of the Sea Conference into a comprehensive agreement.

Mr. President, S. 961, a bill to create a 200-mile fishery conservation zone off the coasts of the United States, will shortly be before the Senate for a vote.

Support for this legislation continues to grow throughout the Nation. But the bill is urgently needed to turn around the depressed economic situation in many of our coastal communities. This bill will provide a very real opportunity for many of our fishermen to continue their livelihood in these troublesome financial times. Instead of going on unemployment or even welfare, fishermen will be able to

continue their livelihood without Federal assistance. [Secs. 2; 301]

In October of this year, the AFL-CIO Maritime Trades Department adopted a resolution supporting legislation creating a 200-mile fishery conservation zone. It should be noted that the Senate bill does exclude tuna from its coverage. [Secs. 2(b) (1) (A); 103]

I believe the position of labor on S. 961 is of considerable interest to my colleagues. I ask unanimous consent that the letter signed by Mr. O. William Moody of the AFL-CIO and the attached resolution be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the Record, as follows:

MARITIME TRADES DEPARTMENT,
Washington, D.C., November 19, 1975.

HON. WARREN G. MAGNUSON,
Chairman, Senate Commerce Committee, Russell Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: At its recent convention, the AFL-CIO Maritime Trades Department adopted a resolution on national fisheries policy issues. Included in this resolution was a policy statement by the Maritime Trades Development on the proposed 200-mile fisheries jurisdiction legislation now pending before the Senate, which will affect many members of MTD affiliated unions. I am forwarding a copy of this resolution to you so that you may be aware of the MTD's position.

The MTD's resolution strongly supports the 200-mile limit concept for the United States. However, the MTD is concerned that any such legislation passed by the Senate should exclude U.S. distant waters fishermen who catch highly migratory species off the coasts of other nations. This will enable U.S. distant waters fishermen to continue to operate under the protection of the Fishermen's Protective Act.

Sincerely,

O. WILLIAM MOODY, Jr.

Enclosure.

RESOLUTION ADOPTED BY THE AFL-CIO MARITIME TRADES DEPARTMENT AT
ITS CONVENTION IN SAN FRANCISCO, CALIF., OCTOBER 1975

RESOLUTION NO. 12--NATIONAL FISHERIES POLICY

The United States fishing industry continues to be plagued by fleets of foreign vessels overfishing American coastal fisheries. Some fish species have been seriously depleted, and American fishermen have suffered heavy losses and the damage of gear due to this growing foreign incursion.

While the United States government controls the fish take of U.S. fishermen, the foreign fleets remain unregulated as to catch, vessels, and gear. Employing larger vessels and massive nets, foreign fishermen have drastically reduced both Atlantic and Pacific Coast stocks.

The subsidized fishing fleets of foreign countries, particularly the Soviet Union, have diminished the best fish from many regions, including the Outer Banks off New England. Off the Pacific Coast, tuna stocks are threatened by foreign fishermen who violate international fish conservation conventions in fishing for already depleted tuna stocks.

Foreign incursions into U.S. coastal waters plus other problems facing the fishing industry have reduced the U.S. catch and increased U.S. dependence upon imported fish. Today, the United States imports more than 60 percent of all its fish, contributing a billion dollar drain to the balance of payments.

The United States, which was once the world's second leading fishing nation, is now sixth, behind Peru, the People's Republic of China, Japan, Norway, and the Soviet Union. The number of American fishing vessels has declined. The

remaining fleet is largely obsolete: 60 percent of the vessels are over 16 years old, and 27 percent are over 26 years old.

Coming at a time when the United States fishing fleet should be growing rapidly, these developments are particularly disconcerting. Inflation and the resulting high cost of food have made fish more attractive than ever as a meat substitute. Last year, fish consumption in the U.S. rose 7.1 percent—faster than in any other country. The market is there, but the U.S. fishing industry has been unable to capitalize upon it.

Lack of United States government support for the U.S. fishing fleet has been one of the primary obstacles to the fishing industry overcoming the excessive foreign competition for U.S. coastal stocks.

Rather than take unilateral action to preserve U.S. fish stocks, the United States has been committed to waiting for the United Nations Law of the Sea Conference to work out a new international fisheries policy. Thus far, there have been no definitive results from that conference due to the overwhelming variety of conflicting national interests and problems.

The United States Department of State refuses to impose sanctions against those nations which harass, fire upon, seize, and fine U.S. tuna vessels fishing in international waters. The State Department ignores foreign violations of international fishing conventions and treaties signed by the U.S. and other nations to conserve tuna.

Considering these multiple problems and the continuing refusal of the federal government to seek any solution, it is imperative that Congress now mandate the new loan and assistance programs and the fishery controls essential to restoring the U.S. fishing fleet to competitive capacity.

It is imperative that the United States act to preserve the U.S. fisheries and the U.S. fishing fleet before both are demolished by foreign fishing fleets.

Therefore, be it

Resolved: That the AFL-CIO Maritime Trades Department urges the prompt passage of H.R. 200, a bill establishing a 200-mile fishing conservation zone around the United States that would protect U.S. coastal fisheries and leave U.S. distant water fishermen free to fish off other nations' coasts for tuna and other migratory species; and be it further

Resolved: By the AFL-CIO Maritime Trades Department that a program should be established to provide assistance to U.S. fishing operators enabling them to modernize and upgrade their fleets and to obtain insurance and other protection on a commercially viable basis.

Mr. MUSKIE. I hope, Mr. President, that my colleagues will join me and my good friend from Washington (Mr. Magnuson), whose name is on this bill and who has led the fight for it for so many years, and my good friend from Alaska (Mr. Stevens), with whom I have been happy to be associated in fighting this battle in supporting this legislation, in moving it quickly through the final stages of the legislative process.

May I express my appreciation to my good friends for yielding to me at this time.

Mr. STEVENS. Mr. President, I thank the Senator for his continued assistance in this matter. I enjoyed very much being able to accompany him to the Caracas meeting, and to the meetings that we had with the ambassadors from Russia, from Japan, and the others who were involved.

The staff has just called my attention to an article from the Journal of Commerce for Tuesday, January 6, entitled "U.S. Mackerel Stocks Seen Lower This Year." It quotes Charles Philbrook, the enforcement

officer of the National Marine Service's Northeast Fisheries Center in Massachusetts.

I did not have any prior knowledge of this, but I just wanted to show how correct the Senator is in his assessment of these foreign fishing operations and what they are doing.

This report indicates one of the major reasons that mackerel stocks are down compared to prior years. But the interesting thing is Mr. Philbrook "estimated the Soviet fleet had overfished its 1975 mackerel quota by about 70,000 metric tons, based on reports from fishery service observers posted on U.S. Coast Guard vessels and on aircraft."

The fishery service has no enforcement powers over foreign vessels fishing beyond the U.S. 12-mile fishing limit, so it must report quota violations to the State Department and to ICNAF. "We took documentation of the Soviet quota violations before the ICNAF meeting in Scotland last winter," said Mr. Philbrook. "The Russians were embarrassed and said their overfishing was due to a computer error. They admitted they may have overcaught their mackerel by as much as 100,000 tons."

We had documentation that they overfished 70,000 and they admitted 100,000.

The Soviet quota for mackerel in 1975 was 101,000 metric tons.

In other words, they have admitted 100 percent overfishing in 1 year alone. One or 2 more years like that, and if those Soviet computers get screwed up again, we will really be in trouble.

That is why I say to my friend from Maine I think he has made a very good point. I do not know of anyone who has been more stalwart in his support for our objectives of fisheries conservation in the meetings that we have attended on the international scene. On behalf of all of our fishermen from Alaska I thank the Senator for his support of this bill and for his call for its quick passage. Because of things like that, 1 or 2 more years like that and the mackerel off the eastern coast will go the way of the herring off the State of California. I am sure my friend knows that story well. It was overfishing and lack of good management concepts that destroyed that fishing area. I would hate to see the other fisheries of the country go in the same direction. I am sure my colleague from Washington joins me in thanking the Senator for his support.

Mr. MUSKIE. I thank the Senator.

I remind the Senator of a conversation we had with one of the Russian delegates at the conference in Caracas. He had taken vigorous exception to our support of this 200-mile legislation. I suggested to him, "You can take the step to avoid our taking unilateral action of this kind by simply voluntarily restricting your activities in our waters."

His answer to that was a very strong negative. He said, "We have ICNAF. That is policing the thing."

He, of course, understood, as we do now, according to the figures the Senator has just given, that ICNAF is not being effectively enforced.

So, of course, he is happy to lean on ICNAF as an excuse to do what they wanted to do and they have done exactly what they wanted to do all this time.

One thing that is particularly offensive is that these fleets come over to our shores and their draggers get right down to rock bottom. Then they go full speed ahead, whatever speed they need, and they just rip the bottom apart, fishing gear, lobster traps, whatever.

Sure, we have some legislation which says the U.S. Government will help the fishermen prosecute a claim. How in Heaven's name is a fisherman going to make a claim when these fleets come and operate in the dead of night? They have come and gone before anybody knows the damage which has been done. The fisherman arrives out there to tend his gear or his traps and they are gone. How will he identify the offender to place a claim?

Then he comes down here to talk to the Government agents about recovering in some way: "We are helpless. Give us the facts."

"I have no facts."

Last year the Senator will remember that Congress enacted legislation requiring the government to reimburse the fisherman until the Government, which is in a better position to prosecute a claim, does so and recovers. If the Government is unsuccessful, the fisherman still gets his money. The President of the United States vetoed that. He said the U.S. Government has no basis to prosecute such a claim.

If the great U.S. Government does not have a basis for prosecuting the claim to a successful conclusion, how do these little fishermen, who have to mortgage everything in the world they own in order to buy their boat and net, prosecute a claim of this kind?

Then they ask us to establish the 200-mile limit to give that kind of protection and the President of the United States says to them, "Wait until we conclude an international agreement."

I cannot blame them when they get the idea, the sneaking suspicion, that their Government does not really care about what happens.

So, Mr. President, I say to my good friends we are going to pass this 200-mile-limit legislation. I believe that is the best signal we can give to the world that although we are interested in their welfare, we are also interested in the welfare of our people; that we intend to exercise the authority and the responsibility of our Government to do so until they will join us in an effective, enforceable way to protect these stocks, to protect our fishermen, as well as to advance the cause of international law and order. [Secs. 2; 101; 102; 401]

I do not think pursuing the latter objective means that we just sit on our hand and ignore the injury which is being done to American citizens while their Government stands helplessly by. I thank my good friend for yielding.

Mr. STEVENS. Mr. President, I ask unanimous consent that the article from which I quoted be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Journal of Commerce, Jan. 6, 1976]

SOVIET TRAWLERS MONITORED—U.S. MACKEREL STOCKS SEEN LOWER THIS YEAR

(By Peter T. Leach)

The Soviet fishing fleet is gathering off Mantauk Point, in the mackerel fishery southwest of Nantucket Island, the National Marine Fisheries Service said Monday.

About 30 to 40 large stern-trawlers have arrived in the area in the last few days and more are coming every day, said Charles Philbrook, an enforcement officer at the National Marine Fisheries Service's Northeast Fisheries Center in Gloucester, Mass.

In addition, there are about 25 Polish trawlers, 20 from East Germany and 10 from Bulgaria, bringing to 100 to 125 the number of East European trawlers fishing in a zone from 15 to 40 miles off the United States East Coast from Nantucket to Northern New Jersey, Mr. Philbrook said.

In the three winter months from January through March, when the U.S. coastal mackerel fishery is at its teeming peak, there may be as many as 300 foreign vessels fishing off the East Coast, but the catch may be down this year because of overfishing last year, which appears to have sharply reduced the mackerel stocks.

A 20 PERCENT REDUCTION

"Some of the vessels we have already boarded say the mackerel fishing is down this year," Mr. Philbrook said, adding, "we are going to have to monitor the Soviets even more closely this year, since they agreed to a 20 percent reduction in their 1976 mackerel quota."

The catch quotas on individual species of fish in the rich North Atlantic fisheries are set each year by the nations of the International Conference on North Atlantic Fisheries, which is universally known as ICNAF.

The National Marine Fisheries Service is responsible for monitoring the fishing fleets in U.S. coastal waters to make sure the ICNAF nations are abiding by the catch quotas.

Mr. Philbrook estimated that the Soviet fleet had overfished its 1975 mackerel quota by about 70,000 metric tons, based on reports from Fisheries Service observers posted on U.S. Coast Guard vessels and aircraft.

The Fisheries Service has no enforcement powers over foreign vessels fishing beyond the U.S. 12-mile fishing limit, so it must report quota violations to the State Department and to ICNAF.

"We took documentation of Soviet quota violations before the ICNAF meeting in Scotland last year," said Mr. Philbrook.

"The Russians were embarrassed and said their overfishing was due to a computer error. They admitted that they may have overcaught their mackerel quota by as much as 100,000 tons," he said.

The Soviet quota on mackerel for 1975 was 101,000 metric tons. Partly because they were caught with evidence of their own violations, the Soviets agreed to a mackerel quota of 80,000 tons for 1976.

PRESSURE FOR EXTENSION

The difficulty of enforcing catch quotas in the North Atlantic fisheries is one of the reasons that pressure is building within the U.S. to extend the fisheries limit to 200 miles.

The House of Representatives has already passed a bill extending the fishing limit from 12 to 200 miles, and the Senate will begin deliberation on its version of the bill when it reconvenes following the Christmas recess.

The National Marine Fisheries Service, which already has enforcement officers aboard some 80 per cent of the U.S. Coast Guard vessels and aircraft, would be responsible for enforcing the 200-mile fishing zone.

Although the 200-mile zone sounds huge and impossible to police, the best fishing grounds are within certain well-defined areas and the Fisheries Service is familiar with the patterns followed by foreign trawlers in these areas.

Because over-fishing by the highly mechanized fleets of foreign trawlers has reduced the stocks of many species of fish in the North Atlantic fisheries, ICNAF has been reducing the fishing quotas from year to year and has closed some areas altogether to fishing at certain seasons.

The last meeting of ICNAF in Montreal in September decided to reduce the total quotas on all species of fish to be caught in 1976 by 34 per cent.

Despite the ICNAF quotas, the total number of fish of all species in the North Atlantic fisheries has declined sharply in recent years, and some species have fallen below what is called the maximum sustainable yield, i.e. the level at which they can replenish their numbers through reproduction at the end of each year's fishing catch.

"It's not a matter of biological extinction, but of economic survival," said William Gordon, the regional director of the Northeast Fisheries Center of the National Marine Fisheries Service.

"My own feeling is that the sooner it (the 200-mile limit) is administered, the better," Mr. Gordon said.

The intensification of foreign fishing within the U.S. 200-mile coastal zone has occurred since 1961, when the Soviet Union's fleet of mechanized trawlers and refrigeration ships first appeared off the East Coast.

Before 1961, the only people fishing the North American coastal waters were fishermen from the U.S. and Canada. In subsequent years, the Russian ships were joined by trawler fleets from other East European countries, from Western Europe and from Japan.

DECLINE IN BIOMASS

Until 1968 there appeared to be little change in the overall size of the fish stocks, but since then, the decline in the total biomass, or weight, of all fish and of individual species has been obvious.

Stocks of yellowtail flounder, haddock, herring and of the category known as other flounders have all declined below maximum sustainable yield.

In the fisheries from George's Bank, off Cape Cod, to Cape Hatteras the total biomass of the 10 most frequently netted species of fish was estimated at 14.2 billion pounds in the 1963-1965 period, according to Mr. Gordon of the Fisheries Service.

By the 1972-1974 period, the total biomass of these 10 species had declined to an estimated 8.8 billion pounds, a drop of some 38 per cent.

In 1966, the total landings of all species of fish by all nations in the George's Bank to Cape Hatteras fisheries was about one million metric tons, which was three times the average annual U.S. catch in the 1950s.

Between 1966 and 1974, the total landings of all species averaged about one million metric tons a year while the U.S. share of the total catch declined to 20 per cent.

The decline in the total stocks of all fish was so marked by 1973 that the nations of ICNAF held a special meeting in October of that year to establish catch quotas, which were set at a total of 924,000 metric tons by all nations during 1974.

Subsequent meetings of ICNAF set an annual quota for all nations of 850,000 tons for 1975. For 1976, the total quota has been reduced 34 per cent to 650,000 metric tons.

Mr. Gordon expressed his hope that the latest catch quotas will result in a revival of the stocks of the most depleted species.

If the current catch quotas are observed, he said, it will take five years for the total biomass of all species to build up again and it will take seven years for the stocks of the most badly depleted species to revive.

Mr. GRAVEL. I would like to speak to some of the points of my distinguished colleague from Maine, for whom I have great affection and respect, as everybody knows.

In this particular area I believe we have a slight disagreement. I think the disagreement hinges not so much on the deep emotional commitment he has to solve the problem or his understanding of the

problem. I believe we all recognize that great harm has been done to our fisheries in the past.

I think where we differ is how to try to solve the problem for the future. If my colleague believes that passing this bill will be a prod to the international conference, all I can say is I disagree radically and so do most of the leaders of the delegations at the conference itself.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Jim Case, of my staff, be granted the privilege of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. I understand the position of the Senator. I must say that over the years of my public life I have been in the forefront of those who have tried to press for international agreements to establish an international regime of law, not only with respect to the oceans but with respect to other matters that set nations against nations. I have been to the SALT talks. I have been to just about every international conference that had any chance of resolving points of friction between nations in the context of the international regime of law and order.

But here we have a unique problem which we find stalemated all these years. I have heard these arguments year after year. I would not have passed the judgment I have passed and described here in the Chamber had I not been to the conference. But I have received the flavor of it. There are a lot of things that stand between the conference and the agreement on the 200-mile limit. The 200-mile limit is not one of them. As I understand, there is strong support on the 200-mile limit, but it may be blocked from final international agreement because there are other problems that look pretty intractable in many ways. I just do not see why the 200-mile limit should be held hostage to these other more intractable problems, which could hold up the Law of the Sea Conference for some time.

Frankly, there was one other impression I had of the conference which I thought was very reassuring. I thought for the most part there was a very positive attitude on the part of all 149 nations toward the importance of writing a new law of the seas. They were involved in a learning process at that time, but they were not reluctant in any way to assert their national interest.

A lot of them there at that conference had already established a 200-mile limit, not just as a coastal fisheries zone but a territorial limit of 200 miles. But they did not find that fact to inhibit their participation in a conference that could establish a different set of rules, nor did I find other nations inhibited in talking to the nations that had already acted because they had already acted. Every nation pursues its self-interest as best it can.

For some reason we in the United States seem to feel we are the only Nation that can never unilaterally pursue its own interest, but that we can only do so in the context of achieving agreement with all other nations. The frustration I experienced with this problem finally persuaded me to move in the other direction, but I understand the rationale. We just reach a different conclusion.

Mr. GRAVEL. I think our conclusions are the same, but our methods to get to the conclusion are different. The method I would employ

would be to put more pressure on the international body. I do not think this legislation would act as a pressuring device.

Mr. MUSKIE. Let me tell the Senator one reason why I think it acts as a pressuring device. The Third World countries of the conference, especially those that are land-locked, are particularly interested in the minerals of the deep sea. They think they have a right to share them. They view that as—what is it they call it? Not the global heritage—

Mr. GRAVEL. The heritage of mankind.

Mr. MUSKIE. The heritage of mankind. They are much more interested in that than in this problem. But if they see the United States moving unilaterally out of frustration to deal with this problem, they might well feel we would move unilaterally in that area also. They understand that the problem cannot be resolved without our participation, and they also understand that we have the technology and the capital to move unilaterally to exploit the mineral resources of the deep sea. So if they see us moving unilaterally with respect to this problem, they could well conclude that "the United States might move unilaterally in order to deal with that other issue in which we are interested, and we had better move rapidly to conclude this Law of the Sea Conference." [Secs. 2(c) (5) ; 401]

Everyone pursues whatever motivation seems to have the highest priority with him. But I cannot see enacting this legislation unilaterally as persuading those nations to abandon the only chance they have to get a share of the heritage of mankind. [Secs. 2(c) (5) ; 401]

Mr. GRAVEL. Let me just say that if it is OK for the fishermen to take 200 miles, what is wrong with giving it to the third world? If we can do it unilaterally, why should not the mining interests move unilaterally to begin mining the deep sea?

Mr. MUSKIE. For very real reasons.

Mr. GRAVEL. Why?

Mr. MUSKIE. Those are not being exploited and devoured and disappearing, and the fisheries are being exploited and devoured and disappearing, and being subjected to growing assault from other countries.

Right now, there is a moratorium, worldwide, on the minerals of the deep sea. There is none here. If the Senator can get us a similar moratorium with respect to the fisheries off our coasts, I will join him.

Mr. GRAVEL. There is no moratorium on deep sea mining.

Mr. MUSKIE. There is a tacit moratorium.

Mr. GRAVEL. They are only withholding moving in because of the actions of our executive with respect to certain pressuring moves. There is also pressure in this body to get legislation to move. So I make my one small point in respect to the Senator's argument: If it is good for fisheries, why is it not good for mining? If it is good for fisheries, why not do it for mining?

Mr. MUSKIE. Because the Senator mixes up the motivation. If that is an example of the strength the Senator is arguing, he knows I am not persuaded at all. I am persuaded even more that we are not.

Mr. GRAVEL. I was merely trying to address myself to one of the minor points the Senator raised.

Another point I would like to make is in regard to the charge the Senator makes that our fisheries are being decimated right now. That is not the case.

Mr. MUSKIE. If the Senator would come to Maine and persuade my fishermen that that is not the case, hen it would be much easier for me to join with the Senator in his position.

Mr. GRAVEL. I have talked with some of the New England fishermen.

Mr. MUSKIE. Mine? Would the Senator identify them?

Mr. GRAVEL. I would be happy to go to Maine, as the Senator from Maine knows, and state my position on fisheries, and let him attack me, and I hope that would help him.

Mr. MUSKIE. I would rather attack the problem.

Mr. GRAVEL. Right; that is what I would like to attack also: The problem right here and now as to what its impact would be on the international community.

I wish someone in the media would interview the various heads of delegations and report back to the American people as to what they think about it—not what you or I think or the Senator from Washington thinks would be the impact of the conference, but what the people at the conference think would be the result of the conference.

Mr. MUSKIE. I can tell you what they will find out.

Mr. GRAVEL. I wish the Senator would accord me the same courtesy I have accorded. If we act unilaterally in this matter, what is to stop any nation from acting unilaterally in a matter it perceives in its interest?

Mr. MUSKIE. Is the Senator asking me the question?

Mr. GRAVEL. Let me finish. Be it in the area of fisheries, passage, mining, transportation, pollution, or what have you. If we determine this to be in our interest and move unilaterally, what is to stop any other nation from doing the same, and if that happens, as every other nation moves unilaterally, what is the point of having an international conference to move in a concerted fashion?

Mr. MUSKIE. Let me answer the first question first. If they ask that question of those delegates, they will get a 100-percent uniform answer.

Mr. GRAVEL. They will not get a 100-percent answer.

Mr. MUSKIE. I am willing to conclude that they will. You talk with the delegates, and their posture is that, of course, they are going to. But when you talk to some of them privately, off the record, I think you will get a more valid assessment.

The Senator asks me what is to stop any nation from acting unilaterally. Absolutely nothing, whether or not this legislation is enacted; and some of them have acted unilaterally, without this legislation having been enacted.

We are involved in the SALT conference. Has that suspended any activity on our part in establishing our defense posture, building up our armed forces, continuing with the development of nuclear weapons? We went ahead with the ABM treaty even while the SALT negotiations were going on, and they ultimately resulted in outlawing the ABM. But we proceeded. I mean the fact that a conference is called and is being held does not suspend the action of nations enacting in their own behalf. Nations are going to be motivated in their

reaction to what we do here, not by any sense of outlawry by which we effect it, but by their perceived self-interest.

What I said in my prepared speech is that I do not believe that the perception of their self-interest which led 149 nations to go to the Law of the Sea Conference with respect to this issue, notwithstanding the fact that several other countries had already acted unilaterally to establish 200 territorial limits, indicates that they all understand, while nations are now acting unilaterally and may continue to act unilaterally until the agreement to the new law of the seas is established, it still makes sense to write a new law of the seas.

We cannot expect people to suspend all their activities or nations to suspend all their activities on the basis of a hope that something in the nature of some form of specific agreement will ultimately make a unilateral action void, without meaning, and ineffective.

We continue to do business as our national interest requires until there is an international agreement which establishes a new set of rules. I think those delegates at the Law of the Seas Conference are sophisticated enough politicians to understand that.

I have talked to a lot of them about their internal politics. They understand that until one reaches agreement one does not give away anything.

We have not had an agreement yet. I am saying we are not going to give away anything that we do not have to give away.

With respect to the deep sea minerals, of course, there is not an agreement on a moratorium, but everyone has held back because they know they can. Those minerals are not going to disappear while the conference goes on. But I say to the Senator that our fisheries can. It is that prospect that motivates us to move. If we can declare a moratorium, as I suggested to the Russian delegates at Caracas, as suggested to the Japanese delegates, and as I suggested to others, and if we could voluntarily create a moratorium at some level so that we can suspend the threat of exploitation and decimation of our resources, I would be happy to join in such a moratorium and vote to suspend action on 200-mile-limit litigation until we get an international agreement, but I am not going to assume that there is going to be an international 200-mile limit at the end of this calendar year. I think that is a very unrealistic assumption.

The Senator cannot promise me that there will be an agreement at the end of this calendar year. The State Department cannot. The President cannot. The record is that there probably will not. So that means still another year because, once we enter a calendar year with such negotiations, the tendency is to use it all. So I am just not content to wait, and I do not think we are going to jeopardize the Law of the Sea Conference. I am not going to be able to convince the Senator from Alaska on that point.

I regret to say I shall have to leave the Chamber for reasons the Senator understands.

But before I do it, even though I disagree with him so strongly, I compliment him on the vigor and thoroughness with which he has pursued his point of view. It has been an example of the way a Senator ought to approach an issue when he thinks deeply about it. So in my disagreements with the Senator I do not in any way challenge the ability with which he is pursuing his case.

Mr. GRAVEL. I thank our colleague for that, and I do understand the reasons for his absence. I regret that this whole country is going to be denied his wisdom as we pursue it. But we understand his duty and I think the Nation shall perceive it this evening.

Mr. MAGNUSON. I wish the Senator from Maine would wait for only a half minute.

I listened to his able presentation, and I have listened to the Senator from Alaska I do not know how long, but a long time. But if I can have the attention of the Senator from Alaska—those are a lot of papers he has there—the argument that was made that the Senator from Maine so adequately answered takes me back a long time. It takes me back 11 years ago in Geneva. I was there 11 years ago. Exactly the same argument was made against the 12- and 9-mile limit that he is making. That was 11 years ago. Now that is waiting a long time. The military was there arguing against a 12-mile limit. Oh, everything was going to happen, everyone in the world was going to have a navigation revolution. We do not have that.

The Senator knows these nations are going to make their agreements according to their own interests. We are not fishing off everyone else's shores.

I wish to say again, that which I have said before. Here, for example, is a half page ad from the Japanese Government which is intimating their views. I shall say to the Senator from Alaska that they will never sign a law of the sea agreement that will restrict them in any way. This was an ad by the Japanese Fisheries Association printed in American papers all over the country during the recess.

They do not practice conservation. Fifty or sixty years ago, the greatest fishing grounds in the world were off the islands of Japan and because they did not do what we are trying to do, they have to go someplace else. This is the real problem.

If we went fishing off the coast of Japan today, if we went fishing off the coasts, I am sure the Senator from Alaska will agree with me—if he will listen a minute—if we went fishing off the Japanese coast, if we started early enough in the morning, the Japanese Diet would meet in the afternoon and throw us out. That is also true with all the countries that are fishing off our coast. We do not fish off everyone's coast. But we are only saying we are protecting our own pasture. That is all.

This was the same argument—and it is like a broken record—that I listened to 11 long years ago. Everyone is going to do something and act unwisely.

As the Senator from Maine says, that is ridiculous.

Mr. MUSKIE. I thank the Senator from Washington.

Mr. GRAVEL. I thank our colleague.

I only wish to correct the record on several points, and I know our colleague from Maine will have occasion to review the record. If he wishes to challenge it, he can do it either in written statement or back here in the Chamber at a later time.

First off, when we talk about the moratorium with respect to deep sea mining, it is not hard to have a moratorium. We are the only Nation that can mine in the deep sea. The Japanese are close to doing it, and there is talk that maybe the West Germans can do it. So when

we talk about the whole world holding back from mining the deep sea, the whole world does not have the ability to mine the deep sea. There is only one country that does, and that is this country.

I say if we can act unilaterally to increase our fisheries we can act unilaterally in other economic areas. I might add that when I see this chart here I am persuaded to question whether or not this is a conservation act or whether it is an act to increase the American catch. If that is the case, then it is not a conservation act. It is an act to only have more fish caught by Americans. That is a good goal, but——

MR. MAGNUSON. We are not increasing the Americans' catch necessarily. It is only to keep what fish we have there.

MR. GRAVEL. I wish to make it clear.

MR. MAGNUSON. There is no amendment pending and the pending business is the bill, is that right?

MR. GRAVEL. Yes.

MR. MAGNUSON. I ask the Senator, is he speaking on the bill or can we proceed with these amendments?

MR. GRAVEL. I am speaking on the bill as Senator Muskie spoke on the bill.

MR. MAGNUSON. All right. He has plenty of time. I wish to point out——

MR. GRAVEL. I wish to finish. The point was made by me that if we act unilaterally in one economic area, such as fisheries, why can we not act unilaterally in another economic area, such as mining? Of course, we can. If we can act to improve the economic interests of our fisheries community, which I would like to do, since my State would be the major beneficiary of that, then what is to stop a group from coming into the Senate—and legislation has already been introduced which is already before the committee—to say, "Well, if this is good for the fisherman, why can we not do the same thing for the mining community?" Of course, there is no argument one can make against it—not at all, because if we did it for the fishing interests we should be able to do it for the mining interests.

It is mistaken to use the argument that the Third World countries will absolutely take a position of abeyance or doing nothing, or this will be pressure on the international conference because they desire the rights from deep sea mining. I might suggest that the Third World is more interested in the 200 miles than is the industrialized world.

In fact, the 200-mile concept came from the Third World, and the United States of America had to be dragged, kicking and screaming, to the conference table to agree to the 200 miles. Many of us from fishery States advocated 200 miles long ago, but the Federal Government of the United States of America opposed this.

So now if we turn around and act unilaterally and give the ability to the Third World nations to act with legitimacy and unilaterally, what motivation is there for them to come to the bargaining table, to the international conference, with any degree of sincerity? Obviously, none at all. That, of course, would destroy the conference; because when we move unilaterally, we set in motion the legality of any nation in the world moving similarly unilaterally on its economic interests as it perceives them.

From that point forward, it is "Katy, bar the door" to the 200-mile international conference; everybody is doing his own number, and you

have anarchy on the seas. The only way you can protect the fisheries is not through a system of law, not a bilateral treaty, and not even through a system of sending out destroyers side by side with every vessel, because the American public will not pay the tab for doing that. That is essentially what takes place in this measure.

We are told that we are taking 200 miles. Every fisherman in this country knows that this kind of legalism, without the backup of the money to police it, is not worth the powder to blow it. It is just a political stroke job on the fishing industry. They will buy it for a year, but, believe me, they will not buy it for much longer than that; because they will recognize that their 200 miles is nothing but a paper 200 miles. The only way you can have a real 200 miles is through enforcement, and the cost of enforcement probably costs more than the economic value of the fisheries in question. That is the tragedy of it. So there is only one way really to solve the problem, and that is with agreement.

My colleague says that the fisheries of the Northeast coast, the Atlantic coast, are depleted. Some are depleted. Some have received very short shrift and very poor conservation practices at the hands of foreigners. But to hold that position today, one has to be totally oblivious to the accomplishments of the agreement of last fall, in which the catch was negotiated down to 650,000 tons. The American portion of that was negotiated up from 17 percent to 35 percent and the foreign catch down to 65 percent.

The Department of Commerce, through the Marine Science Bureau, tells us that the fish on the east coast, on a biomass basis, can be renewed under the present agreement in 5 to 8 years. If these technocrats are correct—and these are the same people who speak to the Senator from Maine and the Senator from Washington, as they speak to me—and if we take their information and data at face value, the political statement made in this body that the fish stocks are being raped today is not true. It just is not true. It may have been 3 years ago, but we are not arguing this issue as of 3 years ago. We are arguing it as of today. The situation today is that these stocks, under existing negotiations, can be renewed on a 5- to 8-year basis, regardless of this legislation or regardless of the Law of the Sea. That is the situation today. It certainly is not a situation that cries out for panic action.

With respect to policing, it should be understood that our negotiators are in Rome now, negotiating at an international meeting, to be able to have observers on all vessels within the ICNAF region, so that we will not be able to have mistakes, intentional or unintentional, that we will not be party to them, because we will have an observer within ICNAF regions on every vessel.

The cost of putting on these observers, the cost of enforcing the law and the treaty, at this time, is infinitesimal compared to the potential cost of having to arm our warships and sending them out to sea to protect our fishermen. I think that is when the fishermen will recognize that the secret to success in the 200 miles is not in unilateral action but is in collective world action, on a bilateral, multilateral world treaty basis, backed up with proper tools to monitor it, proper tools to enforce it. The tool to enforce it in this case would be observers on each vessel, whether it is a bilateral agreement, a multilateral agreement in ICNAF, or the law of the sea.

When we move unilaterally to a 200-mile basis, we set in motion acrimony and the inability to secure the proper type of protection and the proper type of monitoring of foreign activities. They will fish our stocks anyway, unless we do it in a proper way.

Another statement was made by the Senator from Maine to the effect that if we took a survey at the U.N. presently, all the nations would say that the conference would fail if we were to pass this measure. That is not the case at all. Quite a number of nations at the U.N. would like to see us move unilaterally.

An individual from Iceland came up to me and asked very anxiously when this measure would pass. The people in Iceland cannot wait for this measure to pass, so that they can ask us for military aid to protect Iceland from the British. If they do not get the military aid from us—

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. GRAVEL. I should like to finish. I have been very accommodating to my senior colleague, but I should like to finish this point.

What will happen is that we will have moved unilaterally, and the actions of Iceland, which were lost in the international court, which were declared illegal in the international court, would now be made legal, at least as they perceive it, by our actions. They would ask us for military aid to protect them from the British. That is an interesting consideration, because we consider the British our good friends, and we would not be prone to give Iceland military aid. That would mean that Iceland would have to get aid from another major military power. Who would that be? Obviously, Iceland, which is one of the bulwarks of our defense system, would have, to appeal to the Soviet Union. This is a situation tailor-made to do what is being done in the Middle East; and it will move into the whole ocean area. So we perhaps would have a situation in which we would see Russian military vessels moving into Iceland to act as a barrier against British military action, trying to protect the economic interests as they see them. That is just one of the potential scenarios that can be developed.

Let me again correct the Senator from Maine, who stated that many, many countries have gone to 200 miles. That is not so. Only about 10 percent of the world's nations have gone to the 200 miles unilaterally. That is not recognized at all by the major powers of the world.

It certainly makes a difference when Brazil or Bangladesh goes 200 miles and when the United States, the most powerful nation on earth, goes 200 miles. It makes a big difference, because Brazil and Bangladesh cannot enforce what they have done and we can. So as soon as we set that in motion, Canada will have to go 200 miles, as will Britain, the Soviet Union, and Japan. Everybody will go 200 miles, and everybody will go 200 miles for interests as they see them.

It is similar to what was done by the Mexicans. Six days after the bill passed the House of Representatives, the Mexican Government, the executive of the Mexican Government, declared a 200-mile zone. To the uninitiated, this may sound just like what the House did. There is a big difference, because all the House did was to pass a 200-mile fisheries conservation zone. What Mexico did, and requested its Parliament to put in motion—and is now being ratified by all the equivalent states in Mexico—is a constitutional amendment that gives them patrimonial seas. That means that they not only take control of conserva-

tion for fisheries; they take control of all maritime activity above the water, in the water column, and below the water. That is considerably different from what we have done.

But you say, how can they do that? How can they not do that? If we legally can take 200 miles for the economic interests of our fisheries, what stops them from taking the 200 miles as they perceive their interests?

The patrimonial sea is nothing new for them. This is something that has many, many decades of legitimacy in their thought, as they perceive their interests with respect to the seas.

Let me underscore the point that I made earlier in disagreement with my respected colleagues from the State of Maine. That is his view that this will help the international conference. In my view, this will actually thwart the international conference. I rest my case on the very simple, logical fact that if we can do something, so can any other country in the world. So when we legalize this action of taking, then any other country can similarly go take something that they view as in their interest.

When they do this, there is no reason to sit down and negotiate, because we have taken it, they have taken it. The impetus behind the conference evaporates; so we would see the conference peter to an end.

We will compound this great tragedy because, when we are done dealing with the fisheries, the mining interests will come to this Congress and say, "Gentlemen, you have satisfied the economic interests of the fisheries; now we want you to pass legislation satisfying our economic interest." I do not know of anybody who can stand up here with a straight face and say, "No, we cannot do it for you because you are different, but we can do it for the fishing community."

Let me make abundantly clear, so that there is no confusion, my view is that this legislation will hurt the fishing community, not help. There is only one way that we can acquire a 200-mile agreement that will be meaningful to the fishermen of my State and of the Nation. That is to have 200 miles which is enforceable—enforceable not by a Congress that will not appropriate the money to enforce, which is evident in this legislation, [Sec. 406] but enforceable because the mechanisms available will be so simple and so abundant. I am talking in this regard about what I spoke of earlier. That is to have observers.

Under the Law of the Sea, it would be as easy as pie to have observers on every single vessel that comes within our jurisdiction, because that would be the general intent of the Law of the Sea. But when we move unilaterally, there is no way to get that kind of agreement and, therefore, that kind of policing, and therefore, that kind of 200-mile agreement. The 200 miles we get under this legislation is a specious, cosmetic piece of legislation that will lead us to economic disaster in our fisheries. It is just that simple.

I address myself to one minor point, a minor point which I hope the Members of the body will come to realize is a major point. That is that my colleague from Maine said we could pass this legislation and this would act as pressure and, when the Law of the Sea comes into being, we can correct. [Sec. 401] Or that this legislation would not take effect until the Law of the Sea Conference has a chance to act in the spring of this year. [Secs. 104; 312] If that is the case, if the effective date

of this legislation is placed forward to next year, why is it that we have to pass this legislation now? [Sec. 104] Why is it that we cannot wait? It is now the 19th of January. Why is it that we cannot wait until the 7th of May to measure the progress of this international conference? This legislation is going to have an effective date a year hence and we cannot wait what?—2½ or 4 months?—to find out if this international agreement will come into being when so much is at stake. I do not understand the need for panic, which is the position that is being taken by the committee in this regard. I think it is most significant that the International Conference on the Law of the Sea has been meeting through unofficial bodies, whether the Evanson group or bilateral meetings as people from our State Department travel the world, trying to secure agreement. We have made progress, significant progress, in certain areas, and there is no reason to expect that we cannot make progress in the one area that is in contention. That is in the deep sea mining area. The rest of the conference is in general agreement. Why we cannot expect that that kind of progress could be made this year is beyond me.

I think I have responded to the best of my ability to the general points made by the Senator from Maine, and I yield the floor at this time.

Mr. STEVENS. Mr. President, I wonder if it would be possible to secure agreement on these other technical amendments with regard to some time so we can complete what our misunderstanding is with the leadership about today. We have agreed to take just the technical amendments today, going to the committee amendments and the other nontechnical amendments tomorrow.

Would my colleague have any objection to that procedure?

Mr. GRAVEL. Well, no, on the face of it, but in reality, I have not found the leadership terribly accommodating to my position. If they are truly technical amendments, I would have no objection to them. But if the Senator's interpretation, which I now suspect—

Mr. STEVENS. Do not suspect my interpretation.

Mr. GRAVEL. From our colloquy, if the Senator's interpretation of what is technical is what I have already seen demonstrated, I might not have the same interpretation as to "technical". I do not want to prejudice my position, saying I do not think that is technical. If the Senators' amendment is technical, let us have that test.

Mr. STEVENS. Let me test it, then, Mr. President, if I may, and send to the desk a substitute for my amendment 1159.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 57, after line 14, insert the following new paragraph:

"(2) The Secretary shall have no authority to promulgate management regulations establishing a limited access system under subsection (b)(1) of this section unless such regulations have been approved by a majority of the membership of the Council involved." [Sec. 304(c)(3)]

Page 57, line 15, strike "(2)" and insert "(3)". [Sec. 304(b)(2)]

Page 57, line 19, strike "(3)" and insert "(4)". [Sec. 304(b)(1)]

Mr. STEVENS. Mr. President, this amendment was much sought after by Alaska fishermen. It has been discussed with members of our committee from other States. I originally had put in an amendment which would remove from the Secretary the authority to promulgate regulations establishing a Federal limited entry program. It was pointed out to me that some management councils in some areas of the country do, in fact, want a limited entry concept and that this original amendment would have taken away from the Secretary the right to promulgate regulations in the areas where it might be desired by the majority of the councils involved. So the new substitute for amendment 1159 provides that the Secretary has no authority to promulgate this limited access system under this section unless the regulations have been first approved by a majority of the council involved. [Sec. 304(c) (3)]

In other words, we feel that gear limitation proposals must originate with the regional management council and shall not originate with the Federal Government. That was the concept that was the intent of the committee. I believe that was our original intent. [Sec. 304(c) (3)]

Again, my colleague may not believe this is a technical amendment, but this is for the purpose of clarifying our intent with regard to the limited entry concept, which, as he has already remarked, is a very hot issue now in our State, and I think in other areas of the west coast. [Sec. 304(c) (3)]

I am hopeful that this amendment will be accepted. It is, again, an amendment to make certain that any concept of limited access or limited entry will originate with the councils involved and the Secretary would only promulgate management regulations involving that concept if it were first approved by a majority of the regional council involved. [Sec. 304(c) (3)]

Mr. GRAVEL. If my colleague will state it again, in other words, the Secretary would not have the power to initiate. It would have to come from the council, is that the point? [Sec. 304(c) (3)]

Mr. STEVENS. Yes. The limited access system concept, which we call them, would have to originate or be approved by a majority of the council involved. [Sec. 304(c) (3)]

Mr. GRAVEL. Just for my own edification, on decisions between the Secretary and the council, which is more binding? Is the council an autonomous group that can go out and make decisions or do they make decisions and then recommend to the Secretary?

Mr. STEVENS. They recommend regulations. [Sec. 302(h)] They become Federal regulations by virtue of the approval by the Secretary and promulgation by him [Sec. 304] so they will then be enforceable by the Federal Government rather than by the State governments [Sec. 311] because there is, in all instances but one, more than one State government involved. [Secs. 302; 304] We wish these regulations to be enforced within the constitutional sense against both U.S. citizens and noncitizens within the jurisdictional area for conservation purposes. [Secs. 2; 101; 102; 103; 305; 311]

But it is a proposal—the Secretary must promulgate the regulations for them to be final. [Sec. 304]

Mr. GRAVEL. What I am trying to drive at is can the council—suppose there is a disagreement between the council and the Secretary. Whose views would prevail?

Mr. STEVENS. Well, that would depend on the circumstance and, as a practical matter, the Secretary would not have to promulgate them if he disagreed with them. [Sec. 304 (a) (2)] but there would be a potential for a review by the Fisheries Management Review Board where these matters would go for review if there was a dispute. [Not incorporated into Public Law 94-265]

So, in the normal sense, the council would make the proposals. The Secretary would review them to see if they are consistent with the criteria that are set forth in the bill, and if they are, he then promulgates them. [Secs. 302; 304] If he says they are not, then the matter can be taken to the Fisheries Review Board. [Not incorporated into Public Law 94-265]

Mr. GRAVEL. Who appoints the members of the Fisheries Review Board?

Mr. STEVENS. They are appointed in a similar manner to the councils themselves, and if my colleague will look at page 60 they are appointed by the President.

Mr. GRAVEL. What page number?

Mr. STEVENS. Page 60. Five members appointed by the President, with the advice of this body.

Mr. GRAVEL. So five members are appointed by the President.

Mr. STEVENS. It has been pointed out to me that normally the Secretary would return the proposed regulation to the council with his disagreement [Sec. 304 (c) (2)] In other words, the process for review, ultimately is the appeal to the Review Board. [Not incorporated into Public Law 94-265]

Mr. GRAVEL. Normally, as I read this, the President would appoint these people obviously on the recommendation of the Secretary, would he not? Yes. It says appointed by the President—the domain is within the Secretary, and obviously it would be the Secretary in a de facto fashion who would be appointing the members of the Review Council. So the council—

Mr. STEVENS. No; I must correct my colleague. If he will look at page 60 again he will see that they are to be appointed by the President from a list of qualified individuals submitted to the President by the National Governors' Conference, and that the list must contain not less than three individuals for each vacancy. The Secretary does not select the judges, if that is the point.

Mr. GRAVEL. Yes; that was my point and, I think, it is properly corrected here by what the Senator has done.

Mr. STEVENS. I hope the Senator will accept this as being a technical amendment because that is what it is. We have no intention to have the Secretary impose a system which, in some areas of the country is a solution. Each region should decide what it wants to have as far as a system for conservation is concerned.

(At this point Mr. Brock assumed the chair.)

Mr. GRAVEL. I have no objection to the amendment. I was just trying to proceed, by using this, in developing my knowledge as to the rela-

tionship that would exist between the council and the Secretary, and that is primarily what I was concerned with.

I have no objection to this amendment.

Mr. STEVENS. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to Mr. Stevens' amendment.

The amendment was agreed to.

Mr. GRAVEL. Mr. President, if I could address a question to my colleague on the same point, if he could clear up for me the relationship between the secretary and the council in the event there is a disagreement on policy. [Sec. 304(a)(2)] Now, in this particular case we have just passed this technical amendment which said the Secretary cannot act with respect to limited access without the acquiescence of the council. [Sec. 304(c)(3)] That is what I understand we have just done. What does that mean for the balance of the activities that exist between the Secretary and the council? [Secs. 302; 304] Can the Secretary disregard all other actions of the council or should we pass a technical amendment here that would require any decision made by the Secretary to first receive the approval of the council? [Sec. 304]

Mr. STEVENS. Again I must answer my colleague by saying it depends upon the circumstance of who has the proper authority. As the Senator knows, in the fishing industry there are decisions which have to be made at times which are temporary in nature and which deal with a particular problem. So the answer is this: Normally, if the Secretary does not agree he must send it back. [Sec. 304(a)(2)] But in an emergency there is an opportunity for the Secretary to promulgate ad hoc, temporary short-term type regulations. [Sec. 305(e)] We did not want the concept of limited entry to sneak in here under the guise of an emergency power, and that is why this amendment was offered. [Secs. 304(c)(3); 305(e)]

AMENDMENT NO. 1186

May I, Mr. President, call up another amendment, amendment No. 1186.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens) proposes amendment No. 1186.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. Amendment No. 1186 is as follows:

On page 54, line 11, after "shall" insert: "initiate action on the formulation of such management plans and recommended regulations not later than sixty days after the first day on which all initial members of the Council have been appointed and taken office, and shall". [Sec. 302(h)]

Mr. STEVENS. Mr. President, there was some question raised as to the timeliness of moving after the councils have been appointed. [Sec. 302(h)]

The purpose of this amendment is to say that within 60 days after they are appointed and take office they have to initiate the action required under the act. Administratively, of course, we have a proce-

ture to comply with, et cetera, but our intent is that they would not be appointed and just sit there; they have got to have some urgency toward initiating their plans. But again I want to point out this does not say they have to be completed by any particular time. It says they have got to get to work without 60 days after they are appointed. **[Sec. 302(h)]** They would have to find an office; hire staff and do a lot of other things. **[Secs. 302(e); 302(f); 302(g); 302(h)]** but we want to put some sense of urgency into establishing the Management Council's framework, and this is what this amendment is for. **[Sec. 302(h)]** I hope that it will also be taken as a technical concept. It means they have got 60 days to organize their house, and then they have got to start initiating—**[Secs. 302(e); 302(f); 302(g); 302(h)]**

MR. GRAVEL. I have no objection to the amendment.

MR. STEVENS. I move the adoption of that amendment also.

THE PRESIDING OFFICER. The question is on agreeing to Mr. Stevens' amendment (No. 1188).

The amendment was agreed to.

AMENDMENT NO. 1188

MR. STEVENS. Mr. President, I would like to call up amendment 1188.

THE PRESIDING OFFICER. The clerk will state the amendment by title. The legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens) proposes amendment No. 1188.

MR. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 1188 is as follows:

On page 51 between lines 6 and 7, insert the following:

(4) (a) the Governor of each State entitled to membership on a Council wishing to submit to the President, pursuant to this subsection, a list of names setting forth the individuals qualified to be appointed as members of such Council as representatives of each such State shall submit such a list to the President not later than 45 days after the date of enactment of this Act. **[Sec. 302(b) (1) (C)]**

(b) Presidential appointments pursuant to this subsection shall be sent to the Senate for confirmation no later than 90 days after the date of enactment of this Act. **[Sec. 302(b) (1) (C)]**

MR. STEVENS. I want to explain this concept again. We have situations where we cannot compel the Governors of the States to submit nominations to the President, but we can ask them if they want to submit the names to the President that they do so within a specified timeframe. So what this says is that within 45 days after enactment of this act or March 15, 1976, whichever occurs last—in other words, it is 45 days, and I think we could strike that reference to March 15, 1976—the Governors must submit their names, and the President would have 90 days after the enactment of this act to submit the names to the Senate. **[Sec. 302(b) (1) (C)]**

Again, we want to get the council into operation. We have another amendment which I think will become controversial. It is not being brought up at this time, and would make the act effective now but enforceable later so that the councils will get to work and the man-

agement scheme will be implemented and the regulatory process followed. The date on which those regulations will be enforced against anyone would be delayed in order to give the March session of Law of the Sea Conference as the Senator from Maine indicated, to make progress. Perhaps the matter would be reviewed on another basis later on, but at least the management framework is needed whether the Law of the Sea Conference agrees upon a 200 miles or it is unilaterally enacted. [Secs. 302; 303; 304; 305]

We must have a fisherman's management regions, in any event, if it is to be constitutionally enforceable against anyone, be they non-citizens or citizens, it must be on the basis of due process. So due process must be complied with. [Secs. 302; 303; 304; 305; 311]

Again, unless there is some objection, I would like—

Mr. GRAVEL. I have no objection.

Mr. STEVENS. Mr. President, I would like to modify that amendment to strike the words "or March 15, 1976, whichever occurs last from lines 7 and 8, and to strike the words "or April 1, 1976, whichever occurs last". [Sec. 302(b) (1) (C)]

This was submitted last year. Those are now no longer relevant.

The PRESIDING OFFICER. If the Senator will submit the modification to the desk, without objection, the modification will be agreed to.

Mr. STEVENS. And as modified, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to as follows:

On page 51 between lines 6 and 7, insert the following:

(4) (a) the Governor of each State entitled to membership on a Council wishing to submit to the President, pursuant to this subsection, a list of names setting forth the individuals qualified to be appointed as members of such Council as representatives of each such State shall submit such a list to the President not later than 45 days after the date of enactment of this Act or March 15, 1976, whichever occurs last. [Sec. 302(b) (1) (C)]

(b) Presidential appointments pursuant to this subsection shall be sent to the Senate for confirmation no later than 90 days after the date of enactment of this Act of April 1, 1976, whichever occurs last. [Sec. 302(b) (1) (C)]

Mr. STEVENS. Mr. President, we have no more noncontroversial amendments.

I understand that the Senator from South Carolina wishes the floor.

We do have other amendments that we will bring up.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. President, rarely have I seen the Senate so unified in attempting to accomplish a certain goal, but at the same time, so sharply divided on how to get the job done than in the case of S. 961, the fisheries bill.

Each Member is strong in his view that our coastal fish must be conserved and the American fishermen who bring this vital food to our tables must be protected.

The problem revolves around the best means to accomplish this task. The proponents of S. 961 favor unilateral action by establishing

a 200-mile fishery conservation zone. [Sec. 101] while the opponents feel direct negotiations with other fishing nations is the wiser course.

My study of this problem has placed me on the side opposing a bill such as S. 961 for a number of reasons.

NEGOTIATIONS SUCCESSFUL

Briefly it is my belief U.S. fishing rights are being and can be further advanced through bilateral and multilateral negotiations. Further, it appears passage of this bill would create serious national security problems for the United States. Finally, this legislation would end a long standing U.S. policy of not recognizing unilateral claims of oceans' jurisdiction.

Mr. President, I would like to summarize briefly the points under these three headings which argue against passage of S. 961.

First, our national security interests and how they would be affected by S. 961.

ICELAND SITUATION

A classic example of what could happen is illustrated by the "cod war" underway between Iceland and Great Britain. In October Iceland imposed a 200-mile fishing zone about 10 days after House passage of a bill similar to S. 961.

Since that time these two countries, both our NATO allies, have been in a state of tension and potential conflict. On November 27 Icelandic youths stoned the British Embassy in Reykjavik following a rally of 5,000 protesting British naval intervention. The British Navy sent their boats into the 200-mile zone to protect British fishermen working these waters.

On December 11 an Icelandic gunboat that had been rammed, opened fire on British vessels and as a result the British vessels were damaged and an Icelandic crewman injured.

This incident and the entire fishing problem has also led the leaders of Iceland to state that the patrolling by British warships in Iceland's waters was a powerful argument against NATO in Iceland today.

Mr. President, as the Iceland incident illustrates, unilateral action in establishing fishing zones can trigger national security problems not only for the nation setting up the zone, but for other nations as well.

Mr. President, I would like to refer to an article in the Los Angeles Times of the 13th of January 1976, headed "Iceland Threatens To Leave NATO—Break in Diplomatic Ties With Britain Virtually Certain in Fishing Dispute."

BRUSSELS.—Iceland threatened to leave the North Atlantic Treaty Organization Monday if Britain does not withdraw its warships from disputed fishing zones off its coast.

Iceland claims a 200-mile fishing limit off its coasts. Britain does not recognize the claim.

Iceland served notice that it was virtually certain to break diplomatic relations with Britain in protest against the activities of Royal Navy warships in its disputed fishing zone.

"There are now all signs that Iceland will break diplomatic relations with Britain because of the British frigates' rammings of Icelandic patrol vessels last week," Johannesson said.

In Brussels, after a special meeting of NATO ambassadors, Icelandic Envoy Tomas Tomasson told reporters, "If the Royal Navy does not leave, this will lead to a consideration of our participation in this alliance."

The NATO alliance urged Britain and Iceland to use restraint and said it was sending Secretary General Joseph Luns to Iceland to meet government leaders.

Mr. President, those are just some excerpts from that article in the Los Angeles Times. I believe it fully illustrates the dangers in a bill of this type, because after this bill providing for a 200-mile limit passed the House, this action was taken by Iceland. We can see the effect of legislation of this kind pending in the Congress of the United States.

MEXICAN INCIDENT

Another example may be found in Mexican waters. Following House passage of a fisheries bill, Mexico asked its legislature to establish a 200-mile fishing economic zone that would even restrict ships of a particular design in that zone.

Thus, it appears the tension created by unilateral action can make enemies out of friends and may lead to problems unrelated to fishing disputes.

Of greatest importance in the national security area is that unilateral action on fishing can encourage expanded territorial claims. This could lead to the following problems:

Restrictions on mobility in, on, and over the oceans by our Navy, Air Force, and merchant marine fleet;

The necessity to get permission to overfly territorial waters;

Prohibition of submarines operating in territorial waters, thus sharply reducing our area of operations;

Restrictions on surface ships in territorial waters if the affected coastal nation considers such ships a threat to its safety.

The trend on territorial claims is clear. In 1945 only three countries claimed territorial rights of 7 to 12 miles. In 1950 this number jumped to 20 and it is now 58. Further, about 23 countries claim territorial rights beyond 12 miles.

In 1966, when the United States increased its fishing zone to 12 miles, 51 nations extended their territorial claims and 50 claimed fishing zones.

In 1958, only two nations claimed 200-mile fishing zones, but now nine nations have made 200-mile territorial claims, none of which we recognize. These include seven nations in South America and two in Africa.

Finally, on this point, the Senate should know that the Chairman of the Joint Chiefs and the Chiefs of the Navy and Air Force have testified in opposition to S. 961 because of the restrictions on military operations and the cost of enforcement.

INTERNATIONAL LAW

Mr. President, another important aspect of this bill is that it violates the freedom of fishing agreements, one of four basic ocean freedoms agreed to by the United States at the 1958 Geneva Convention.

Three points on the international law problems need to be made:

Passage will effectively abrogate numerous existing fishing agreements.

S. 961 is contrary to longstanding U.S. policy and practices of not recognizing unilateral claims of oceans' jurisdiction.

Based on present international law, the United States is not recognizing on the west coast the 200-mile claims of Mexico, Ecuador, and other countries relative to our tuna fishing operations.

FISHING CLAIMS

The final point which needs to be addressed is the main thrust of the bill which attempts to solve problems for our fishermen on both coasts.

Opponents of S. 961 feel the United States is making good progress through bilateral and multilateral negotiations, while supporters of the bill see the need for unilateral action.

PROGRESS THROUGH NEGOTIATION

Let us examine this issue in more detail. First, country to country negotiations since 1972 have not only reduced the total catch within 200 miles of our shores for conservation reasons, but have sharply cut the catch by foreign vessels and increased the U.S. catch.

ATLANTIC PROGRESS

This is illustrated by the following quotas negotiated by the International Commission for Northwest Atlantic Fisheries:

In 1972 the total fish catch was 1.1 million tons, 83 percent foreign and 17 percent United States.

In 1974 the total catch was reduced to 923,000 tons, 79 percent foreign, 21 percent United States.

In 1975 the total catch was reduced to 850,000 tons, with foreign catch at 75 percent and the U.S. catch at 25 percent.

In 1976, quotas approved by the ICNAF nations provide for a total take of 650,000 tons, 65 percent foreign and 35 percent United States.

Mr. President, the State Department advises the present U.S. quota is about all our northwest Atlantic fishermen can handle and the reduced foreign catch will allow needed conservation measures to take hold.

WEST COAST SITUATION

Now, on the west coast the United States has negotiated a good agreement with the Japanese, and passage of this bill would be a setback for the salmon industry which opposes S. 961. Presently the Japanese are taking only 3 percent of U.S. salmon. Further, other negotiations are about complete and when announced should demonstrate the effectiveness of solving these problems through bilateral and multilateral negotiations.

In summary, on the fishing aspects of the bill, these points need to be made:

Since last year, fishing quotas for the Soviets, Poles, Japanese, and other foreigners have been reduced 23 percent.

BILATERAL AGREEMENT BETWEEN POLAND AND UNITED STATES

On December 16 the United States announced the successful negotiation with Poland of an excellent fishing agreement which sets quotas with Poland in U.S. Pacific waters effective January 1, 1976.

The key points of this agreement include:

First. United States is allowed to set allowable catch for any species.

Second. U.S. fishermen can take as much of that allowable catch as their boats can handle.

Third. The remaining allowable catch is then allocated to fishermen of other nations.

Fourth. Poland agreed to a 39-percent reduction in the quotas for hake, the chief catch of the Polish boats.

Fifth. Poland also agreed to reduce their vessel days in the U.S. Pacific waters by the same 39 percent which gives real strength to the agreement, since the absence of their boats greatly reduces any violation of the quotas.

Sixth. Poland agreed to stay out of some areas entirely.

Seventh. Poland agreed to fish in some areas only certain times.

Eighth. This accomplishment, of course, was not known when the Committee wrote S. 961.

This outstanding agreement with Poland demonstrates the success our Government is having in bilateral and multilateral negotiations. Certainly the threat of S. 961 had a great deal to do with this outstanding agreement, but enactment of S. 961 would abrogate this agreement.

Further, solution of the hake fishing problems in the U.S. Pacific waters will be hopefully solved in negotiations with the Russians in February.

Mr. President, I ask unanimous consent that the press release issued by the Department of State entitled "United States and Poland Sign New Fisheries Agreement" be printed in the Record at this point.

There being no objection, the press release was ordered to be printed in the Record, as follows:

UNITED STATES AND POLAND SIGN NEW FISHERIES AGREEMENT

The United States and Poland signed today in Washington a new fisheries agreement concerning Polish fishing off the Pacific Coast of the United States.

The new agreement is the first bilateral transient agreement in employment of the new United States fisheries initiative. The United States fisheries initiative was announced by Secretary of State Henry A. Kissinger in a speech to the American Bar Association Convention in Montreal, Canada, last August. The Secretary described proposals in Congress to establish a 200-mile fishing zone by unilateral action as "extremely dangerous" and incompatible with efforts to solve fisheries problems in the Third United Nations Conference on the Law of the Sea.

"To conserve the fish and protect our fishing industry while the treaty is being negotiated," Secretary Kissinger said, "the United States will negotiate interim arrangements with other nations to conserve the fish stocks to ensure effective enforcement, and to protect the livelihood of our coastal fishermen."

"These arrangements will be a transition to the eventual 200-mile zone," he said.

The first step in the new initiative was successfully completed at the meeting of the International Commission for the Northwest Atlantic Fisheries in October. Among other things, member countries (other than the United States) that fish off the United States Atlantic Coast agreed to reduce their catch in

1976 by 34 percent over 1975. In succeeding negotiations, the United States will continue to pursue the objectives and principles of the fisheries initiative.

The agreement with Poland includes, for the first time, principles that will govern future fishing off the Pacific Coast of the United States by Polish fishermen. These principles are based on the consensus emerging from the United Nations Conference on the Law of the Sea concerning legal and jurisdictional changes in the regime of fisheries management within 200 miles of coastal countries.

The new principles are designed to adjust future Polish fishing to the new regime. Poland agrees that the United States will determine the total allowable catch for species off the Pacific Coast on the basis of the best available scientific evidence. Within this total, which will be set to ensure the effective conservation of the stocks, American fishermen will have a preference to that part of the total they are able to harvest. Any surplus within the total will be allocated among foreign fishermen.

In the elaboration of these principle, substantial new restrictions and controls affecting Polish fishing operations in the North Pacific, designed to protect resources off the United States coast and the special interests of U.S. fishermen, were agreed to by Poland.

Under terms of the former agreement, Poland harvested 42,500 metric tons of hake off the U.S. Pacific Coast in 1975. Under the new agreement, Poland's hake quota has been reduced in 1976 by 39 percent to 26,000 metric tons. Poland also agreed to reduce its fishing effort by a similar percentage in terms of numbers of days that its fishing and processing vessels will engage in the hake fishery. Under this arrangement, Poland will move its fleet seaward off the U.S. coast when it has reached its hake quota or the agreed number of vessel-days, whichever occurs first. This measure will serve to protect certain important coastal species, such as rockfish, which are taken incidentally by foreign countries while fishing for hake.

Even with the new restrictions and controls in the Polish fishery, the total harvest of Pacific hake is, however, in excess of maximum sustainable yield level since, in addition to Poland, several other foreign countries are engaged in the hake fishery. Therefore, the United States will seek to reduce the catches made by other nations in future negotiations to protect the hake stock.

Poland also agreed to reduce the total number of vessels it plans to license for operation off the U.S. Pacific Coast in 1976¹ from 15 to 12, and to reduce the number of fishing and processing vessels that will be permitted in various areas and times off the U.S. coast from 11 to 8.

A provision in the former agreement prohibiting fisheries by Poland on Pacific salmon, halibut, rockfish, blackcod, flounders and soles, Pacific mackerel, shrimp and continental shelf resources, was expanded to include Pacific herring as well in 1976.

New area and time restrictions have also been incorporated in the new agreement. For example, Poland agreed to refrain from fishing year-round from 38°30' North Latitude off the coast of northern California south to the U.S.-Mexico border to help protect rockfish and juvenile hake stocks. In the Gulf of Alaska, Poland agreed to refrain from fishing in certain areas and times, similar to provisions in the U.S. agreements with Japan and the Soviet Union, to protect halibut and other groundfish stocks and to reduce fishing gear conflicts. In addition, Poland agreed to refrain from fishing for a nine-month period in a large area between 147°W and 157°W Longitude in the vicinity of Kodiak Island, Alaska.

Other restrictions and measures contained in the former agreement, including a voluntary inspection scheme, conciliation of gear loss and vessel damage claims, and the opportunity to place U.S. observers aboard Polish vessels to collect scientific data, are continued in the 1976 agreement.

The new agreement was signed on behalf of the United States by Miss Rozanne Ridgway, Deputy Assistant Secretary for Oceans and Fisheries Affairs, Department of State, who headed the U.S. Delegation. The Polish Charge d'Affaires, a.i., Minister Jozef Wiejacz, signed for the Polish People's Republic. The agreement will be effective for one year, starting January 1, 1976.

Mr. THURMOND. Mr. President, since 1972, total quotas allowed for foreign fishermen have been cut by 50 percent. U.S. unilateral action,

¹ Original press release incorrectly read 1977 instead of 1976.

such as S. 961, would wipe out these valuable gains. Gulf coast shrimp fishermen, as well as the tuna fleet, could be seriously injured by similar claims.

Mr. President, in closing I recognize this has been a long statement, but this is an important issue.

Although I am sympathetic to those Members who are most affected by these fishing problems, it is nevertheless my view their own interests would be best served by allowing country-to-country negotiations to continue at least for another year. It is my feeling the fishing interests will be best served by such an approach and additionally, such a solution would revive us of many national security problems.

Late last week seven of my colleagues joined me in a "Dear Colleague" letter which is now on the desks of the membership. It is my hope each Senator will study this letter carefully and take note of the editorials from the New York Times, Wall Street Journal, and Washington Post which oppose S. 961. In conclusion, I ask unanimous consent that this letter and its attachments be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. Brock). Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, the Chief of Naval Operations, Adm. James L. Holloway III, made a strong statement before the Armed Services Committee on this measure. I wish to quote an excerpt from his statement. He said:

Our economy depends on free movement of raw materials and manufactured goods by sea. The movement is protected in part by the 1958 Convention on the High Seas which recognized the following general principal of international law: (1) freedom of navigation (2) freedom of fishing (3) freedom to lay submarine cables and pipelines and (4) freedom to fly over the high seas. The legislation before you would unilaterally abrogate freedom of fishing out to 200 miles which is one of the constituent elements of the overall freedom of the high seas. Such action would be a beginning to "creeping jurisdiction" which leads to full territorial claims.

The response of other nations is not likely to be limited to comparable legislation. For instance a few days after House approval of a similar unilateral bill, Mexico also announced a unilateral claim, but its claim went far beyond those made in S. 961. We face the unhappy prospect that other nations, stimulated by U.S. action, will claim the right to abrogate unilaterally other identified freedoms, including the freedoms of navigation and overflight leading finally, to full sovereignty. We are faced with choosing to contest such claims; trying to make costly bilateral agreements on the rights of movement, or acquiescing in being potentially excluded from almost 40% of the world's oceans area.

In the testimony last year of the Chairman of the Joint Chiefs of Staff, General Brown, he strongly opposed unilateral legislation and delineated in detail why such "creeping jurisdiction" leading to greatly expanded territorial areas must be stopped through the achievement of an equitable, timely and comprehensive Law of the Sea Treaty.

The effect of a 200-mile territorial sea extending off the coasts of many nations in the world would be detrimental to military mobility. It would result in the prohibition of overflight by military aircraft and submerged operation of submarines except at the sufferance of a coastal state in almost forty percent of what is internationally recognized as high seas. The entire Mediterranean, the operating area of the Sixth Fleet, would be territorial seas of the littoral states and could be closed completely to the United States. Similarly, large portions of the operating area of the Seventh Fleet would become territorial sea. An unconstrained extension to even 12 miles would close the straits of Bab ElMandeb, Dover, Gibraltar, Hormuz and Lombok. Virtually every passage now narrow enough to be called a strait would be closed by the extension of territorial waters to 200 miles.

In the past we have asserted that no nation may unilaterally abrogate high seas freedoms—that only through multilateral negotiation can the necessary adjustments in coastal state resource jurisdiction be properly accommodated with the community and common interests of mankind as a whole. Our departure from this practice would encourage other nations to do the same.

Mr. President, I ask unanimous consent that the entire statement of Admiral Holloway be printed in the Record at this point in my remarks.

There being no objection, the statement was ordered to be printed in the Record as follows:

PREPARED STATEMENT OF ADM. JAMES L. HOLLOWAY III

Mr. Chairman and Members of the Committee: I appreciate the opportunity to appear on behalf of the Chairman, JCS before this Committee to present the military assessments of the impact of U.S. unilateral claims to jurisdiction over the high seas. The Magnuson Fisheries Management and Conservation Act (S. 961) is such a claim, and I consider that passage of this legislation at this time would be detrimental to our security interests, since it would delay and perhaps destroy chances for achieving a rule in the oceans through the medium of a widely accepted, equitable Law of the Sea Treaty.

Our fundamental security interest in the rule of law in the oceans is reduction of sources of conflict. To do this we must look ahead, and develop a regime in the seas which will reduce the potential for conflict by reducing uncertainty of law and reducing the possibilities of confrontation over competing claims. The United States has consistently supported the development of a reasonable Law of the Sea Treaty as the best means of achieving such a regime. Our studies by the JCS in recent years have pointed to the potential for ever increasing confrontations, chaos, challenges, and conflict in the oceans, unless a new, comprehensive, Law of the Sea Treaty is concluded. The oceans are a last frontier. They have been subject to ever increasing unilateral claims to national jurisdiction since World War II.

The position of the United States has been and should continue to be one of opposing such unilateral claims. By our nonrecognition the number of these unilateral claims has remained small. Only nine nations thus far claim full territorial seas of 200 miles while four others claim lesser jurisdiction over the same distance. Those closest to the daily negotiations or the Law of the Sea indicate that this number will multiply rapidly if our country reverses itself and moves unilaterally to increase its jurisdiction over the high seas.

Our economy depends on free movement of raw materials and manufactured goods by sea. This movement is protected in part by the 1958 Convention on the High Seas which recognized the following general principles of international law: (1) freedom of navigation (2) freedom of fishing (3) freedom to ply submarine cables and pipelines and (4) freedom to fly over the high seas. The legislation before you would unilaterally abrogate freedom of fishing out to 200 miles which is one of the constituent elements of the overall freedom of the high seas. Such action would be a beginning to "creeping jurisdiction" which leads to full territorial claims.

The response of other nations is not likely to be limited to comparable legislation. For instance a few days after House approval of a similar unilateral bill, Mexico also announced a unilateral claim, but its claim went far beyond those made in S. 961. We face the unhappy prospect that other nations, stimulated by U.S. action, will claim the right to abrogate unilaterally other identified freedoms, including the freedoms of navigation and overflight leading finally to full sovereignty. We are faced with choosing to contest such claims: trying to make closely bilateral agreements on rights of movement, or acquiescing in being potentially excluded from almost 40% of the world's oceans area.

In the testimony last year of the Chairman of the Joint Chiefs of Staff, General Brown, he strongly opposed unilateral legislation and delineated in detail why such "creeping jurisdiction" leading to greatly expanded territorial seas must be stopped through the achievement of an equitable, timely and comprehensive Law of the Sea Treaty.

The effect of a 200-mile territorial sea extending off the coasts of many nations in the world would be detrimental to military mobility. It would result in the prohibition of overflight by military aircraft and submerged operation of sub-

marines except at the sufferance of a coastal state in almost forty percent of what is internationally recognized as high seas. The entire Mediterranean, the operating area of the Sixth Fleet, would be territorial seas of the littoral states and could be closed completely to the United States. Similarly, large portions of the operating area of the Seventh Fleet would become territorial sea. An unconstrained extension to even 12 miles would close the straits of Bab El Mandeb, Dover, Gibraltar, Hormuz, and Lombok. Virtually every passage now narrow enough to be called a strait would be closed by the extension of territorial waters to 200 miles.

In the past we have asserted that no nation may unilaterally abrogate high seas freedoms—that only through multilateral negotiation can the necessary adjustments in coastal state resource jurisdiction be properly accommodated with the community and common interests of mankind as a whole. Our departure from this practice would encourage nations to do the same.

Our experience in attempting to obtain overflight clearances in Europe during the most recent Arab-Israeli conflict leads us to believe that bilateral negotiations cannot be depended upon to ensure the military mobility necessary to achieve U.S. foreign policy objectives.

General Brown spoke last year to the needs of the U.S. Air Force for keeping rights of overflight, rights not enjoyed over sovereign areas. He also spoke to the impact on our nuclear submarine forces of increasing territoriality and the loss of high seas areas for submerged operations. This committee knows of the importance of global mobility in an era of decreasing overseas presence, and what competing unilateralism means in terms of loss of movement. Whatever hurts our chances for a comprehensive, timely Law of the Sea Treaty directly hurts our military security.

Mr. Chairman, a Law of the Sea Treaty which gives us a settled regime in the oceans greatly reduces sources of conflict among nations. Such conflict has been caused by competing unilateral claims to various jurisdictions—claims which eventually extend to full sovereignty. If the U.S. unilaterally declares a 200 mile fishing zone, as proposed in S. 961, after our years of constant opposition which has helped to keep such claims by others at a minimum, we will, at the very least, slow up the positive momentum now existing in the Law of the Sea negotiations, and quite probably destroy our chance for an agreement that supports our present and future security needs in the oceans. It is for this reason that the military services recommend against the proposed unilateral legislation.

General Jones has endorsed the substance of my remarks and we will respond to any questions you may have regarding security implications of the proposed legislation. Rear Admiral Morris, the JCS Representative for the four services at the Law of the Sea Conference, can reply to specific questions regarding that undertaking.

Thank you.

Mr. THURMOND. Mr. President, General Jones, the Chief of Staff of the Air Force, testified before the Committee on Armed Services on November 19, 1975, and I wish to state here a portion of his statement.

General JONES. I associated myself with the remarks in the statement of Admiral Holloway. Many have asked, when they heard that I was coming to testify on the Law of the Seas and the Emergency Marine Fisheries Protection Act, what the Air Force was doing in this business. And of course, the point is the one that Admiral Holloway made, which is that what happens on the sea impacts the air overhead, and our need to fly unimpeded over international waters.

In the last few days, I have spent a great deal of time studying the previous testimony, and whatever else I could find. As an American I am very sympathetic to the problem of our fishing industry, of the depletion of our stocks and other problems of the sea, ecology, such as hopefully we can resolve this problem, and solve it in a way that does not increase the probability of some sort of confrontation.

The concern, of course, is the one expressed of creeping jurisdiction, and the implications of the United States being the leader in taking an action. We cannot say with 100 percent assurance, if this bill is passed, that other nations will start moving in this direction, but the history has shown that this is the trend. And our concern, of course, is with our unarmed transports.

Really the problem in the air is in some ways more severe than on the surface, because on the surface we do have 2,000 years of precedent on the right of innocent passage. That is not everything, but at least it is the right of innocent

passage into, and through the territorial waters of foreign countries. But military aircraft do not have the right of innocent passage over the territorial seas of another country. So we are very, very concerned about the possible extension of territorial limits.

We realize that this act does not extend our territorial limits, and it is limited only to fishing. But if we take this action and say it is to our advantage to deviate from the 1958 agreement, then other nations may believe they also have a right to. We end up with this creeping jurisdiction and an increased probability of conflict. There is also an increased probability of our long-range transports not being able to resupply our own forces or other forces without being escorted, without having to go on different routes, and in certain cases being denied overflight. So it is of deep concern to us, Mr. Chairman, on the overflight rights.

Mr. President, I ask unanimous consent that the full statement of General Jones be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT BY GENERAL JONES

General JONES. I associate myself with the remarks in the statement of Admiral Holloway. Many have asked, when they heard that I was coming to testify on the Law of the Seas and the Emergency Marine Fisheries Protection Act, what the Air Force was doing in this business. And of course, the point is the one that Admiral Holloway made, which is that what happens on the sea impacts the air overhead, and our need to fly unimpeded over international waters.

In the last few days, I have spent a great deal of time studying the previous testimony, and whatever else I could find. As an American I am very sympathetic to the problem of our fishing industry, of the depletion of our stocks and other problems of the sea, ecology, such as hopefully we can resolve this problem, and solve it in a way that does not increase the probability of some sort of confrontation.

The concern, of course, is the one expressed of creeping jurisdiction, and the implications of the United States being the leader in taking an action. We cannot say with 100 percent assurance if this bill is passed, that other nations will start moving in this direction, but the history has shown that this is the trend. And our concern, of course, is with our unarmed transports.

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Mr. THURMOND. Mr. President, I have a statement here issued by Gen. George S. Brown, U.S. Air Force, Chairman of the Joint Chiefs of Staff, and he was accompanied by Rear Adm. Max K. Morris, U.S. Navy, Joint Chiefs' representative to the Law of the Sea Conference.

I shall not take time to read his entire statement, but I will read into the Record a few excerpts.

This is on page 2 of his statement:

The proposed legislation would unilaterally abrogate freedom of fishing, one of the constituent elements of the overall freedom of the high seas. The response of other nations to this legislation is not likely to be limited to comparable re-

strictions on fishing. If the United States, by unilateral act, abrogates one identified freedom, we face the unhappy prospect that other nations may claim the right unilaterally to abrogate other identified freedoms, including the essential freedoms of navigation and overflight.

In response, many nations will surely claim 200-mile exclusive fishing zones. Some will claim 200-mile pollution control zones. Some will claim the right throughout such areas to promulgate and endorse restrictive regulations of various sorts against vessels bearing vital energy supplies to our shores. Some will attempt to prohibit nuclear-powered vessels, or vessels and aircraft carrying strategic weapons from venturing within 200 miles of their coast. Some will even claim a 200-mile zone of sovereignty, thereby completely barring our aircraft and submerged submarines from their claimed zone. This is the history of the growth of such claims. Prior to our claim of a 12-nautical mile fishing limit, there were only 25 claims to a territorial sea of 12 nautical miles or more. There are now over 80 such claims.

The effect of a 200-mile territorial sea extending off the coasts of many nations in the world would be devastating to military mobility.

Mr. President, another excerpts from General Brown's statement :

If the United States now abandons its opposition to unilateral claims in the ocean, we will inevitably be faced with an increasing number of competing, retaliatory, or unrelated claims impacting adversely on national security interests.

If, as we expect, enactment of this legislation were to result in extended delay in the law of the sea negotiations, we will have reverted to the uncertain and dangerous procedure of shaping a new legal order for the world's oceans by the process of claim and counterclaim, action and reaction, which eventually would coalesce into customary international law. This is a dangerous way to regulate any relations among states. But when the claims begin to affect the mobility of our strategic and general-purpose forces, the risk involved in the process of challenge is much higher. To set the nation on this path toward resolution of oceans policy issues is, in my view, both dangerous and unwise.

Mr. President, those excerpts, as I said, were from the statement of General Brown before the Committee on Armed Services.

Mr. President, I ask unanimous consent that his entire statement be printed in the Record at this point in my remarks.

There being no objection, the statement was ordered to be printed in the Record, as follows :

STATEMENT OF GEN. GEORGE S. BROWN, U.S. AIR FORCE, CHAIRMAN, JOINT CHIEFS OF STAFF, ACCOMPANIED BY REAR ADM. MAX K. MORRIS, U.S. NAVY, JOINT CHIEFS REPRESENTATIVE TO THE LAW OF THE SEA CONFERENCE

General BROWN. Mr. Chairman and Senator Thurmond, I appreciate the opportunity to appear before this committee to present our assessment of the impact that passage of the Emergency Marine Fisheries Protection Act of 1974 would have on the security of the United States.

First, I assure the committee that the Department of Defense is well aware of the difficulties being experienced by our coastal fishermen. A solution to these problems must be found. Any such solution, however, must be compatible with our national security interests. I am convinced that passage of this legislation at this time would be counter to the security interests of the United States.

The major U.S. military interest in the seas is maximum mobility for our operations free of interference by others. The United States—like virtually all of the major powers that have preceded it in history—has fundamental high seas interests integrally related to its major power responsibilities and its security.

The mobility of our strategic and general purpose forces becomes a more important factor in our security as the presence of our forces—both strategic and general purpose—on foreign territory is reduced. Worldwide commitments and long lines of communications place additional emphasis on mobility requirements. Furthermore, the ability of our deterrent forces to carry out their mission cannot be dependent on the sufferance of other nations who may perceive their interests as different from ours.

In regard to our strategic forces, they must be numerous enough, efficient enough, and deployed in such a way that a potential aggressor will always know

that the sure result of any type of nuclear attack against the United States is unacceptable damage from our retaliation. Furthermore, these forces are essential to the maintenance of a stable political environment within which the threat of aggression or coercion against the United States or its allies is minimized.

Thus, the survivability of our strategic forces is essential to the protection of our vital interests. As an indispensable element of our strategic forces, the United States seaborne nuclear deterrent is dependent not only upon freedom of mobility in the oceans and through certain international straits but upon secrecy. In the territorial sea, submarines are required to navigate on the surface. In the absence of free passage through straits, an extension of the territorial sea from 3 to 12 miles would force us, as to many straits used for international navigation, including Gibraltar, to attempt to strike the best possible bilateral bargain for consent to transit submerged. The cost of this consent may be expected to increase with the magnitude of the known U.S. interest involved.

Our general purpose forces now play a larger role in deterring attacks than at any time since the nuclear era began. Like our strategic seaborne forces, our general purpose naval and air forces depend upon the maximum mobility for their operations, free of interference by others. This mobility will be particularly important to our ability to deter or respond to localized aggression during a period of decreasing overseas presence. Our mobility currently depends upon freedom to navigate on and under the high seas and through certain international straits and freedom to fly over the high seas and certain international straits. Authority for coastal States to regulate these activities degrades our mobility and threatens the peace.

Our antisubmarine warfare operations involve surface and air units that cannot conduct such operations in foreign territorial seas without consent. As such operations can be easily observed, our ability to track Soviet submarines that entered foreign territorial seas submerged—legally or illegally—would be diminished as the territorial sea is extended farther seaward.

With this background, it is now appropriate to assess the impact of the pending legislation on these interests.

The Convention on the High Seas of 1958 specifically lists four high seas freedoms which are recognized by the general principles of international law. They are: (1) freedom of navigation, (2) freedom of fishing, (3) freedom to lay submarine cables and pipelines, and (4) freedom to fly over the high seas. The United States and 52 other nations are parties to this Convention.

The proposed legislation would unilaterally abrogate freedom of fishing, one of the constituent elements of the overall freedom of the high seas. The response of other nations to this legislation is not likely to be limited to comparable restrictions on fishing. If the United States, by unilateral act, abrogates one identified freedom, we face the unhappy prospect that other nations may claim the right unilaterally to abrogate other identified freedoms, including the essential freedoms of navigation and overflight.

In response, many nations will surely claim 200-mile exclusive fishing zones. Some will claim 200-mile pollution control zones. Some will claim the right throughout such areas to promulgate and endorse restrictive regulations of various sorts against vessels bearing vital energy supplies to our shores. Some will attempt to prohibit nuclear-powered vessels, or vessels and aircraft carrying strategic weapons from venturing within 200 miles of their coast. Some will even claim a 200-mile zone of sovereignty, thereby completely barring our aircraft and submerged submarines from their claimed zone. This is the history of the growth of such claims. Prior to our claim of a 12-nautical mile fishing limit, there were only 25 claims to a territorial sea of 12 nautical miles or more. There are now over 80 such claims.

The effect of a 200-mile territorial sea extending off the coasts of many nations in the world would be devastating to military mobility. It would result in the prohibition of overflight by aircraft and submerged operation of submarines except at the sufferance of a coastal state in almost 40 percent of what is now internationally recognized as high seas. The entire Mediterranean would be territorial seas of the littoral states and could be closed completely to the United States. Virtually the entire operating area of both the 7th and 6th Fleets would become territorial sea. An unconstrained extension to even 12 miles would close the Straits of Bab El Mandeb, Dover, Gibraltar, Hormuz, and Lombok. Virtually every passage now narrow enough to be called a strait would be closed by 200 miles.

How will we respond to such claims, Mr. Chairman? We have consistently maintained that no nation may unilaterally abrogate high seas freedoms—that only through multilateral negotiation can be necessary adjustments in coastal state jurisdiction be properly accommodated with the common interest of mankind as a whole. What will be our response after we, too, have succumbed to the temptation of the quick unilateral solution presented in this bill?

Our experience with overflight clearances in Europe during the most recent Mideast conflict leads us to conclude that bilateral negotiations cannot be depended upon to insure that military mobility necessary to achieve U.S. foreign policy objectives. What this bill invites, then, is a situation wherein the United States must either acquiesce in serious erosion of its rights to use the world's oceans, or must be prepared to forcefully assert or purchase those rights.

Let me turn now to the event to be anticipated off our own coasts. It is highly unlikely that the major maritime powers who fish off our coast, especially Japan and the Soviet Union, would acknowledge the validity of a sweeping claim. To do so would totally undercut their own position both in fisheries in general and in the law of the sea negotiations in particular. We must, therefore, assume that such vessels would not seek our permission to fish within 200 miles of our coasts and that they would continue to do so. Enforcement of the act would involve boarding, inspection, arrest, and seizure. I cannot predict with certainty how they would react to such enforcement measures by the United States.

I can, however, clearly point to the history of the last year in which the United Kingdom responded to a claim of a 50-mile fishery zone on the part of Iceland by providing warship escort for the British fishing vessels.

Our claim would be even more contentious than that which Iceland has made for two reasons. First, our claim would be more expansive—200 miles rather than 50 miles—and, second, since that time the International Court of Justice has found Iceland's actions in making such a claim to be in contravention of the rights of others. Should other nations choose to follow the pattern set by the United Kingdom of providing warship escort for fishing vessels, we would be faced with a direct military confrontation which could easily spread. I am, of course, not suggesting that we would not be able to meet and defeat such a threat. I do suggest that the risk of confrontation is unwarranted.

I would now like to turn to the effects which enactment of this bill would be likely to have on our ability to achieve a law of the sea treaty. From the very beginning of the law of the sea negotiations, the United States has been the strongest advocate of the principle that international conflicts concerning uses of the ocean can only be effectively resolved through international agreement. We have invariably protested unilateral claims by other states, whether to extended territorial seas or extended jurisdiction of one type or another, such as fishing jurisdiction. Our protest notes normally stress our view that unilateral claims to extended jurisdiction during the course of negotiations can only inhibit the negotiations and decrease the likelihood of reaching agreement.

A dramatic reversal of the position from which we have been negotiating, practically on the eve of what is apparently the most crucial negotiating session, would seem to be capable of no other effect than utterly destroying our credibility, along with rendering slim or even nonexistent our ability to obtain an overall package settlement of the existing disputes concerning ocean uses.

Mr. Chairman, I believe that the best way of preserving our essential mobility is through a comprehensive law of the sea treaty which will, in settling existing and potential conflicts, reaffirm by treaty our vital rights of navigation, overflight, and unimpeded passage of international straits. The alternative would be their preservation through their continued exercise despite the denial by others of our right to do so, and the use of force, in defense of such rights, when confronted by the force of others.

In summary, Mr. Chairman, it is my earnest assessment that the interests of the United States in establishing an equitable and stable regime for the oceans which will protect all of our interests—resources as well as national security—are best served by not precipitating unilateral acts such as those which would result upon the passage of S. 1988, but rather by seeking and achieving international agreement in the law of the sea treaty.

In my judgment, enactment of the proposed legislation would seriously erode the prospect for a broadly based multilateral treaty putting to rest the wide range of increasingly contentious ocean issues. Enactment of the proposed legislation would be a dramatic and highly visible reversal of past U.S. policy. For the United States to adopt unilateralism as a viable approach to oceans policy

problems at this juncture would seriously undercut the credibility of U.S. negotiators not only on the fisheries issue, but also on our basic commitment to international agreement. This unilateral action could result in an erosion of the world's perception of our other essential objectives such as unimpeded transit through and over straits, which we have identified as both cornerstones of our policy and essential elements of an acceptable solution.

If the United States now abandons its opposition to unilateral claims in the ocean, we will inevitably be faced with an increasing number of competing, retaliatory, or unrelated claims impacting adversely on national security interests.

If, as we expect, enactment of this legislation were to result in extended delay in the law of the sea negotiations, we will have reverted to the uncertain and dangerous procedure of shaping a new legal order for the world's oceans by the process of claim and counterclaim, action and reaction, which eventually would coalesce into customary international law. This is a dangerous way to regulate any relations among states. But when the claims begin to affect the mobility of our strategic and general purpose forces, the risk involved in the process of challenge is much higher. To set the nation on this path toward resolution of oceans policy issues is, in my view, both dangerous and unwise.

Thank you, Mr. Chairman.

The CHAIRMAN. We have with us also Mr. John Norton Moore, Chairman of the National Security Council Interagency Task Force on the Law of the Sea, Department of State.

Mr. THURMOND. Mr. President, I have a statement of John N. Moore, the Chairman of the National Security Council Interagency Task Force on the Law of the Sea and Deputy Special Representative of the President for the Law of the Sea Conference. He testified before the Committee on Armed Services on November 10, and I wish to quote an excerpt from his statement.

In considering the impact of a unilateral U.S. claim, it must be borne in mind that great maritime powers are traditionally the most reluctant to support unilateral extensions of jurisdiction over the high seas. Thus much of the rest of the world would regard any U.S. claim as a minimum, not a maximum, indication of permissible unilateral assertions of jurisdiction. Moreover, there would be a great temptation in other countries to strike while the iron is hot and blame the consequent confusion regarding navigation and other freedoms—detrimental to U.S. interests—on the domestic political pressure in their own countries created by the U.S. precedent and the domestic political need to go beyond the U.S. claim. We should keep in mind in this connection that the U.S. is the number one user of the world's oceans.

In the law of the sea negotiations, a number of nations directly oppose our interests in protecting navigation. Some argue for restrictions and political controls in straits while others want to close territorial seas to certain types of vessels. Some of these nations may well be willing to use U.S. action on fisheries to justify their own future actions restricting navigation and scientific research. A unilateral extension of fisheries jurisdiction by the U.S. will clearly undercut our political ability to prevent those actions.

Mr. President, I ask unanimous consent that the entire statement of Mr. John Norton Moore be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

PREPARED STATEMENT OF THE HONORABLE JOHN NORTON MOORE

Mr. Chairman, Members of the Committee, I appreciate the opportunity to appear before the Committee to testify in opposition to S. 961, a bill which would extend U.S. fisheries jurisdiction to 200 miles onto the high seas. That bill—if passed and enacted into law—would breach solemn treaty obligations of the United States, would severely harm United States oceans and foreign relations interests, and would mark a step backward in mankind's efforts to achieve a stable order for the world's oceans.

All can agree with the purpose of this bill: to protect fish stocks off our coasts until such time as a fully effective Law of the Sea Treaty is in force. In the past,

certain stocks have been seriously damaged by overfishing. Despite past overfishing, however, recent fishery agreements have dramatically turned the tide in protection of stocks off our coasts. At the present time, approximately only ten to fifteen, if that, of the more than 100 species off our coast of interest to commercial sportsfishermen are expected to be below maximum sustainable yield and declining as a result of foreign fishing. Moreover, S. 961 or other bills which would unilaterally extend U.S. fisheries jurisdiction from the present 12-mile limit to 200 miles, are neither the most effective way to deal with our remaining fisheries problems nor compatible with the diverse interests of the United States as the number one user of the world's oceans.

The Third United Nations Conference on the Law of the Sea—dealing with issues of fundamental importance in all areas of oceans use—has held only eighteen weeks of substantive work. Despite such few weeks in formal session, there is broad agreement on a 200-mile economic zone as part of a comprehensive Law of the Sea Treaty. The Single Negotiating Text produced at the last session of the Conference makes clear that this zone could provide the kind of jurisdiction needed to ensure full management and conservation of coastal fish stocks while protesting our vital navigational interests. The text also provides for increased jurisdiction for the protection of our important salmon stocks. Although the Law of the Sea negotiations are difficult and time-consuming, they are on track and we have good expectations of concluding a treaty which would protect our important security interests in the oceans. There is simply no question that a comprehensive Law of the Sea Treaty will also provide full protection for coastal fish stocks.

We are aware that the Law of the Sea negotiations are difficult and that we cannot predict with certainty when a treaty will be concluded. As such, we have not relied solely on the prospect of a new Law of the Sea Treaty to bring overfishing off our coasts under control. Actions recently taken to protect coastal stocks include:

An intensification of efforts to strengthen protection from bilateral and limited multilateral fishery agreements with nations fishing off our coasts;

New enforcement measures which went into effect December 5, 1974, to strengthen protection for our continental shelf fishery resources.

That these measures are succeeding is illustrated by the successful outcome of the Special Meeting of the International Commission for the Northwest Atlantic Fisheries only seven weeks ago. The meeting, to which President Ford sent a personal message, was among the most successful in the history of the Commission and resulted in a 23 percent reduction in overall catch quotas over 1975 in the area from Maine to North Carolina. According to our fisheries scientists, operation at this level should provide for overall recovery of the stocks in the area rather than further decline. Agreement was also reached on closing a large area on Georges Bank to vessels using gear capable of catching the depleted yellowtail flounder, haddock, and other bottomfish. Similarly, bilateral negotiations with the Japanese have resulted in a reduction of their harvest of king crabs to less than 300,000 today. By contrast, the U.S. catch of king crab has increased from 123,000 to nearly nine million today. This year's agreement alone reduced Japanese king crab quota by nearly 60 percent from 700,000 crabs to 300,000. To cite another recent example, this year the Japanese agreed to reduce their catch of pollack in the Northern Pacific by nearly 30 percent from 1.5 million tons to 1.1 million tons. We will be negotiating with the Japanese to reduce allocations to the Maximum Sustainable Yield (MSY).

To further increase the protection for fish stocks off our coasts, Secretary Kissinger has recently announced a new initiative to negotiate the functional equivalent of a 200-mile fishing zone off the U.S. coast phased over the next one to three years. Our plan will be to accomplish through negotiations, not unilateral action, establishment of a fully effective conservation regime and preferential harvesting rights for United States fishermen within 200 miles off our coasts.

The principal—and only justifiable—rationale for S. 961 is as an emergency measure to protect fish stocks off our coast until a Law of the Sea Treaty can be concluded. Our new information, in the light of recent fishery agreements, indicates that efforts to meet the problem through negotiations have been successful. In view of this new information, the most important of which has been available only within the last few weeks, any rationale for S. 961 seems removed.

I would like to briefly survey the state of the stocks off the U.S. coast area by area to indicate which stocks are below maximum sustainable yield and declining

in light of new agreements now in force. Many of these agreements were not in force when this Committee last addressed the problem.

THE NORTHWEST ATLANTIC FROM MAINE TO CAPE HATTERAS, N.C.

As a result of the recent historic ICNAF agreement, principal stocks in this area are expected to rebuild. The most pressing problems in the area, the condition of haddock and yellowtail flounder, are being addressed through new quota agreements severely restricting catch, and time and area closures that are expected to allow the stocks to regenerate. We were successful in closing most of the important Georges Bank area, a closure sufficiently large to provide satisfactory protection for these stocks and other bottomfish. Although certain stocks such as haddock remain depleted as a result of past overfishing, nothing in S. 961 can remedy past damage.

CAPE HATTERAS, N.C., TO THE FLORIDA KEYS

In this area, problems to stocks are minimal. At this time there are no stocks within this area which are below maximum sustainable yield and declining as a result of foreign fishing. The only depleted species within the region, menhaden, is found within the present U.S. exclusive fisheries jurisdiction of the 12-mile contiguous zone and has been depleted by U.S. fishing.

THE GULF OF MEXICO

There are no stocks within this area below maximum sustainable yield and declining as a result of foreign fishing. In contrast, our Gulf fishermen fish for shrimp and red snapper within 200 miles of other nations.

CALIFORNIA

Only one stock, Pacific hake, off the California coast is below maximum sustainable yield and declining as a result of foreign fishing. We do not now have a commercial fishery for Pacific hake. In contrast, California is the principal home port for the efficient U.S. tuna fleet which fishes within 200 miles of other nations and which lands about \$138 million in tuna annually. Moreover, U.S. fishing is responsible for the depletion of several stocks off California, including the Pacific sardine.

THE NORTHEAST PACIFIC: OREGON AND WASHINGTON

Several stocks in this area continue to be fished beyond maximum sustainable yield, most importantly Pacific hake and rockfishes. Nevertheless, recent bilaterals with Japan and the Soviet Union have made major progress in controlling the overfishing. For example, the Japanese agreed this year to a 20% reduction in total bottomfish, 75% in rockfishes, and 63% in bottomfish in certain specific conservation zones. The Soviet agreement closes coastal areas off southern Washington, Oregon and Northern California to all Soviet trawling between November 1 and April 25 to protect bottomfish. The Soviets have also agreed to a 60% reduction in their incidental catch of rockfishes. Our estimates indicate that the two stocks of primary concern, Pacific hake and rockfishes, will require only a further 25 and 14 percent reduction respectively. In the light of recent progress this seems reasonably attainable in the near future and we will make every effort to that end.

THE GULF OF ALASKA AND THE BERING SEA

Several stocks in these areas continue to be fished beyond maximum sustainable yield, including pollack, rockfishes, sablefish and halibut. Nevertheless, recent bilaterals with the Soviet Union and Japan have made major progress in protecting these stocks.

For example, in the Gulf this year, the Soviets agreed to reduce their catch of pollack by 29%. Rockfish and sablefish, however, will require an additional 26 and 29 percent reduction, respectively, to reach maximum sustainable yield.

In the Bering Sea, Japan and the Soviet Union this year agreed to a reduction in their pollack fishing or approximately 27%. We estimate that an additional 24% reduction will be required to bring the harvest within the maximum sustain-

able yield. We believe reductions of this magnitude are feasible in the light of recent progress.

Incidental catch of halibut—in the course of a directed fishery for other species—has been a serious problem for Alaskan fishermen but recent measures to control incidental catch should reduce this problem.

We do not have a commercial fishery for pollack or Pacific hake, although at some time in the future one might be developed. In contrast, Alaska fishermen now harvest over \$100 million in salmon yearly. These stocks depend for protection on the International North Pacific Fisheries Commission (INPFC) agreement with Japan and bilateral agreements with other nations. In the absence of agreement, these stocks would be vulnerable to capture beyond 200 miles since approximately 80% of the stocks migrate beyond 200 miles at some point during their life cycle.

In addition, as has been previously indicated, recent bilateral agreements have provided Alaskan fishermen with a great increase in protection and preference with respect to crabs. Salmon, crabs and shrimp (in Alaska found within the 12-mile U.S. exclusive fishery jurisdiction) are by far the greatest commercial harvest to Alaska fishermen. Both crab and shrimp in Alaska are now under exclusive U.S. fisheries jurisdiction and salmon is largely protected pursuant to the INPFC agreement with Japan and other bilaterals.

Mr. Chairman, although I have previously indicated in testimony before this Committee reasons why passage of legislation such as S. 961 would severely damage the national interest, I would like to briefly indicate again for the record some of the serious objections to passage of such legislation. These include:

Such a unilateral extension would violate the pledged word of the United States as embodied in our solemn treaty obligations, including the important 1958 Geneva Convention on the High Seas;

Passage would seriously undermine our ability to prevent unilateral claims by others which could seriously harm U.S. defense and energy needs. The recent Mexican announcement of a 200-mile economic zone, possibly including jurisdiction over vessel operations and standards, is an illustration that these concerns are real and immediate;

Passage would seriously injure important U.S. tuna and shrimp interests which fish within 200 miles of other nations. The value of tuna landings caught in international waters off foreign shores by U.S. fishermen alone exceeds \$138 million per year;

Passage would undermine U.S. leadership in the Law of the Sea negotiations and seriously damage the effort to obtain a stable order for the oceans;

Passage would undermine the establishment of international measures for the conservation and full utilization of oceans protein supplies; and

Confrontation with nations fishing off our coasts rather than a continuation of our successful fishery negotiations could delay rather than advance solution of remaining fishery problems.

None of these objections can be cured by a delayed effective date.

We must not as a nation fail to provide the leadership necessary to protect our national oceans interests and to guide all nations to a stable order for the oceans. Our fisheries interests, our security interests, and our strong interest in a stable oceans regime all require that we not enact S. 961. I urge that this Committee and the Senate firmly reject this bill and in doing so reaffirm United States leadership in oceans policy and the integrity of our pledged word.

SUPPLEMENTAL STATEMENT BY JOHN NORTON MOORE, CHAIRMAN, THE NSC INTERAGENCY TASK FORCE ON THE LAW OF THE SEA AND DEPUTY SPECIAL REPRESENTATIVE OF THE PRESIDENT FOR THE LAW OF THE SEA CONFERENCE

Enactment of legislation establishing United States' fishing jurisdiction to 200 miles will have a severe adverse impact on other United States' uses of the oceans off the coasts of other countries which will go far beyond fishery matters. Although by its terms S. 961 is limited to jurisdiction over fisheries, other countries could well use our action as a precedent to extend their own jurisdiction over other uses of the oceans which are vital to the United States.

The history of the law of the sea is replete with trends and individual actions in which nations have built their own extended claims of jurisdiction on the foundation of different claims advanced by others. The 20th Century unilateral

claims to a 12-mile territorial sea began with a Russian claim of a 12-mile fishing zone, which was later "reinterpreted" as a territorial sea by the Soviet Government. The effect of extending the territorial sea to 12 miles in straits would severely damage the navigational and security interests in the absence of adequate agreement on unimpeded passage of straits.

In the 1940's the doctrine of jurisdiction over the resources of the continental shelf was developed with a clear limitation that the jurisdiction did not extend to the superjacent water column. However, in the early 1950's, Chile, Ecuador and Peru, with a very narrow continental shelf off their coasts, claimed sovereignty over the waters to 200 miles, clearly encouraged by the United States Truman Proclamation of 1945 regarding the continental shelf. They argued that if the U.S. could unilaterally extend its jurisdiction for one purpose that suits its interests, others could extend jurisdiction for other purposes that suit their interests. This process of South American 200-mile claims, originally for fisheries purposes, culminated in a Brazilian 200-mile territorial sea claim.

Article 2 of the 1958 Convention on the High Seas guarantees not only the freedom of fishing but also the freedoms of navigation, overflight, and the freedom to lay and maintain submarine cables and pipelines, as well as other freedoms recognized by general principles of international law. If the United States openly violates a specified freedom of the high seas, other nations would feel free to violate other freedoms including the freedom of navigation.

More recently, the President of Mexico has sent a draft law to his parliament to establish a 200-mile economic zone off the coast of Mexico. While his basic rationale for the draft law is to ensure Mexican jurisdiction over resources off its coast, the law also asserts Mexican control over scientific research and does not exclude jurisdiction to set standards for ship construction and operation within the 200-mile zone.

While it is not clear whether the pending U.S. legislation encouraged the Mexican action, they have closely monitored U.S. actions. In any case, Mexico did expand its proposed law to cover navigation-related matters although the basic purpose is to cover fisheries.

[In considering the impact of a unilateral U.S. claim, it must be borne in mind that great maritime powers are traditionally the most reluctant to support unilateral extensions of jurisdiction over the high seas. Thus much of the rest of the World would regard any U.S. claim as a minimum, not a maximum, indication of permissible unilateral assertions of jurisdiction. Moreover, there would be a great temptation in other countries to strike while the iron is hot and blame the consequent confusion regarding navigation and other freedoms—detrimental to U.S. interests—on the domestic political pressure in their own countries created by the U.S. precedent and the domestic political need to go beyond the U.S. claim. We should keep in mind in this connection that the U.S. is the number one user of the world's oceans.]

In the law of the sea negotiations, a number of nations directly oppose our interests in protecting navigation. Some argue for restrictions and political controls in straits while others want to close territorial seas to certain types of vessels. Some of these nations may well be willing to use U.S. action on fisheries to justify their own future actions restricting navigation and scientific research. A unilateral extension of fisheries jurisdiction by the U.S. will clearly undercut our political ability to prevent those actions.

Mr. MOORE. Recent progress in protection of fish stocks off our coasts demonstrates, I believe, that there is no emergency justifying passage of S. 961. Although the Law of the Sea Treaty is expected to provide full protection of the coastal stocks off our coast. We have been intensively negotiating bilateral and multilateral fishery agreements for the protection of those stocks, and there are now more than 22 of these fishery agreements in place.

Mr. THURMOND. Mr. President, this is a matter of great national import. This is a matter that concerns, as these gentlemen have testified, the Chairman of the Joint Chiefs of Staff of the Armed Services, the Chief of Naval Operations, the Chief of Staff of the Air Force, and the ambassador appointed by the President to the Law of the Sea Conference. There is no question in my mind that all these gentlemen have set out in their statements very vital points which I think the Senate should consider in passing upon this bill.

As I stated earlier, we all have the same goal. It is a matter of how we reach that goal. Are we going to pass a bill providing for unilateral action, or are we going to give an opportunity here for this progress to continue? I realize that it is taking longer than it should, but when you have to deal with many nations in the world, it takes a great deal of time.

As I have pointed out, we just obtained this agreement with Poland, we are getting agreements with other nations, and within a reasonable time it is hoped that we will have an agreement of the sea that will protect the fisheries of this Nation without the necessity of passing a bill providing for unilateral action to that extent.

It is not just passing this fisheries bill, but we are setting a precedent here, as was brought out in some of these statements, in which other fields may be gone into. Fields of pollution may be gone into, fields of stopping ships with nuclear weapons may be gone into, and other forms of navigation may be gone into.

Furthermore, these experts of ours—I presume they are experts; they are the best we have—the chairman of the Joint Chiefs of Staff and the Chief of Staff of the Air Force—are very concerned about overflights, because we have to pass over other nations in delivering equipment and supplies to our forces in various parts of the world, and it is essential that we be able to maintain the overflights. So we feel that, with respect to navigation and overflights, from the standpoint of national interest, it would be better for this bill not to pass.

Again I assure those espousing this bill that I can understand their concern and their desire to attain relief; but I believe relief is going to come. It may come faster than they think, and it may come in a way that will do more good in the end, rather than have the treaties already entered into abrogated, it would place us in confusion, so that we perhaps will have to start all over again, and this would disrupt our relations with many countries.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., January 19, 1976.

DEAR COLLEAGUE: We are writing reference S. 961, the 200-mile limit fisheries bill, as it is our view this legislation is not only unnecessary, but would do irreparable harm in several respects.

Essentially there are three issues involved: fishing interests, national security interests, and international law.

FISHING INTERESTS

1. The purpose of S. 961, to protect coastal fisheries, has largely been accomplished through bilateral and multilateral negotiations:

Since last year, fishing quotas for the Soviets, Poles, Japanese and other foreigners have been reduced 23 percent;

Since 1972, total quotas allowed foreign fishermen have been cut by 50%;

U.S. unilateral action, such as S. 961, would wipe out these valuable gains;

Gulf Coast shrimp fishermen, as well as the tuna fleet, could be seriously injured by such extensive claims. Just recently 10 U.S. shrimp boats were seized by Mexico and charged with violation of Mexico's current 12-mile territorial limit;

U.S. unilateral action would upset salmon agreements in the West Coast waters presently negotiated with Japan.

NATIONAL SECURITY INTERESTS

Past experience indicates that broad unilateral claims, such as encompassed in this bill, will cause other nations to also act unilaterally on issues important to them which may well go beyond strictly fishing interests and impacts unfavorably on our national security.

Iceland has recently claimed a 200 mile fishing zone and a "cod war" has now developed between the British Navy and Iceland's Coast Guard;

Six days after House passage of a 200-mile fisheries bill, Mexico called for a 200-mile economic zone which goes beyond mere fishing rights;

Mobility in, on and over the oceans is a fundamental need for our Navy, Air Force and Merchant Fleet;

Overflight above territorial waters can be accomplished only with permission of the coastal states if territorial claims are made;

In territorial waters submarines cannot travel submerged, thus sharply restricting the ocean areas in which our missile subs could operate;

In territorial waters, even surface ships can be restricted if the coastal state considers them to be a "threat." None nations have in recent years made 200-mile territorial claims;

The Chairman of the Joint Chiefs of Staff, and the Chiefs of the Navy and Air Force are opposed to this legislation, because of the restrictions on military operations, anticipated enforcement problems and the resulting costs.

INTERNATIONAL LAW

S. 961 violates Freedom of Fishing Agreements, one of four basic ocean Freedom expressions in the 1958 Geneva Convention, of which the United States is a signator.

Passage will effectively abrogate numerous existing fishing agreements:

S. 961 is contrary to long-standing U.S. policy and practice of not recognizing unilateral claims of oceans' jurisdiction;

Based on present international law, the U.S. is not recognizing on the West Coast the 200-mile claims of Mexico, Ecuador, and other countries relative to our tuna fishing operations.

It is our view that if this bill passes, the United States, a country committed to a rule of law and the number one user of the world's oceans would be forced to abandon our past stand against recognition of unilateral claims.

We recommend that you carefully consider these fishing, national security and international law issues which passage of S. 961 would involve. It is our conclusion that approval of the Fisheries Bill at this time would not be in the best interests of the United States.

Attached are copies of editorials from the New York Times, the Wall Street Journal, and the Washington Post in opposition to S. 961.

Sincerely,

JOHN TOWER,
DEWEY BARTLETT,
DICK CLARK,
GALE MCGEE,
HUGH SCOTT,
ROBERT GRIFFIN,
STROM THURMOND,
BARRY GOLDWATER,
U.S. Senators.

[From the New York Times, Dec. 8, 1975]

FISH AND THE SEAS

The Senate is soon to act on a bill that would arbitrarily extend United States fisheries jurisdiction to 20 miles.

This newspaper supported a companion bill last summer, which has already been adopted by the House, because we then believed that such unilateral action offered the last hope of saving rapidly dwindling fish stocks off the coasts of

the United States, particularly in the Northwest Atlantic. A recent breakthrough in multilateral efforts to curb overfishing by large foreign fleets off New England and the Middle Atlantic states radically changed that situation.

Prodded no doubt by the threat of Congressional action, seventeen nations, meeting in September at a special session of the International Commission for Northwest Atlantic Fisheries, (ICNAF) in the Montreal, approved new quotas that will drastically decrease foreign fishing while allowing some increase in the catch of American fishermen. The three largest foreign fishing operations—those of the U.S.S.R., Poland and East Germany—have been cut by mutual consent to about 50 percent of 1974 levels. Most of the productive Georges Bank area has been closed to trawlers capable of catching seriously depleted ground-fish. As a result, United States fisheries experts estimate that stocks can rebuild to maximum sustainable yield levels within seven years.

Admittedly, important questions regarding enforcement remains to be ironed out at another ICNAF meeting that is scheduled to be held in Rome next month. And more needs to be done to reduce quotas of endangered species in the Northwest Pacific, where significant but still inadequate progress has been achieved through bilateral and multilateral negotiations during the past year. Nevertheless, the recent thrust has clearly been toward greater cooperation for conservation by those nations which have been the most serious offenders—the Soviet bloc countries and Japan.

Against the risk that this encouraging multilateral trend cannot be sustained must be weighed the larger threat to broader United States interests that could now arise from any unilateral American fisheries action. An arbitrary extension of a 200-mile fisheries jurisdiction would endanger the critical Law of the Sea Conference that is due to reconvene in New York next March; this will try to complete a comprehensive agreement covering not only fisheries but also such vital United States interests as free passage of vessels and aircraft through and over offshore waters and straits, deep sea mining and scientific research. With so much at stake, and with so much already achieved toward attaining the goal of fisheries conservation through multilateral action, we believe it would not at this time be in the national interest for Congress unilaterally to extend American fisheries jurisdiction.

[From the Wall Street Journal, Dec. 8, 1975]

THE 200 MILE LIMIT

The Senate Armed Services Committee recently approved a bill that will prohibit fishing by foreign fleets within 200 miles of the coasts of the U.S., and approval by the full Senate is expected shortly. One measure of its popularity can be seen in the 2-to-1 margin by which the House passed a similar bill last month.

There is the usual mixture of political expediency and economic advantage behind the congressional enthusiasm: some arguments are on a par with those warnings a few years ago that foreign "sweat shops" were destroying the American textile industry. And there is an element of national muscle flexing in inferences that we should pass the bill and leave it to the Coast Guard, or Navy if need be, to deal with any foreign fleets foolish enough to transgress.

Congressmen who favor the bill generally seem convinced that it is necessary for protecting the U.S. fishing industry and for preventing the depletion of dwindling fish stocks. Nevertheless, there are better ways to accomplish these desirable ends.

The State Department, which is lobbying against the extension, is concerned by the fact that 15 nations already have claimed a 200-mile limit. For the U.S. to do so, it feels, would invite a stampede of other nations to follow suit. And it could lead some to claim not just fishing rights but sovereignty far out into the oceans. Mexico, for example, claimed territorial jurisdiction up to 200 miles shortly after the House passed its 200-mile bill in October.

Adm. James Holloway, Chief of Naval Operations, testified that the proposed bill might result in U.S. warships and possibly merchant ships being denied access to the Mediterranean and other important waterways.

Congress is unimpressed with assurances that the Law of the Sea Conference is almost certain soon to include a 200-mile economic zone treaty with the kinds of protection it wants. And proponents of the bills are probably right that such a treaty is more a hope than a certainty. But the most reasonable and effective safeguards, in our view, can be assured through bilateral agreements between interested nations. The State Department ignored the problem of fish depletion for much too long, but current bilateral agreements with Russia, Japan and other nations seem adequate to protect principal fish stocks. If not, they should be renegotiated so that they do provide adequate protection.

Legal scholars are agreed that such unilateral action being planned by Congress would violate international law. And since international law has taken such a drubbing in recent years, we don't wonder that Congress does not feel any overriding urge to genuflect before it. Yet it is important for the U.S. to avoid being a party to any such violations, in part as an example to those who do mock it, but more importantly in order to keep faith with America's own values and aspirations.

[From the Washington Post, Nov. 4, 1975]

THE FISHING BILL

Some high-class testimony by Sen. Mike Gravel (D-Alaska) has provided a certain hope that a bill to unilaterally extend American fisheries jurisdiction out to 200 miles, passed in the House by a vote of 208-101, may yet be slowed in the Senate. From the viewpoint of the American interest in promoting international agreement on issues of the sea, this has always been an unfortunate bill, one that could not fail to spur similar unilateral steps by other coastal nations and to undermine the ongoing United Nations Law of the Sea Conference. But it has also been understood both by supporters and opponents that the measure would not be fought out primarily on terms of international law and the larger diplomatic interest. Rather, the bill was recognized as one embodying a deep, desperate and legitimate concern by American fisherman to prevent the continued ransacking of American coastal fisheries by the high-technology distant-water fleets of other nations, particularly Russia and Japan. Against this sort of immediate economic interest—measured in declining catches and revenues, and in rising unemployment in the industry—more abstract considerations have not stood a chance.

Precisely here lies the importance of Sen. Gravel's testimony. Using new figures that sobered even the most ardent advocates of the 200-mile bill, he argued that foreign overfishing is being reduced, and can likely be further reduced, by the enforcement of international agreements already in place and by the prompt negotiation of further agreements. The negotiations approach has the further keen advantage of not undercutting the substantial American interests in tuna and other coastal species caught within 200 miles of other nations. Past experience has given American fishermen good reason to be leery of promises of protection by diplomatic negotiation. But recent and current experience is much more solid. The threat of unilateral enactment of a 200-mile fisheries zone did in fact mobilize a previously laggard State Department and gave it the clout needed for successful fisheries negotiations with other countries. American fishermen need now to understand the degree of success they have actually attained. They cannot afford to overplay their hand.

Last year the Senate, knowing that the House would not take up the bill, voted 68 to 27 for a 200-mile zone. But the Gravel testimony casting doubt as it does on the economic need and value to fishermen of such a zone, could if properly exploited reduce that margin and put the vote into a realm where the key factor would be whether President Ford exercised a veto. Twice Mr. Ford has said that he favors a 200-mile limit, but one achieved by negotiation. On the eve of an election year, he will be under heavy political pressure to cast a veto, despite the country's broad foreign-policy interest in avoiding the diplomatic damage of a unilaterally enacted zone. Sen. Gravel, who has a large fishing constituency of his own has shown him the way.

Mr. MAGNUSON. Mr. President, the hour is a little late, but I want the record to show just one or two points. It will take only a moment.

In the first place, I say to the Senator from South Carolina that nowhere in the bill, nowhere in the hearings, nowhere in all the years we have been talking about this with the military and everyone else, does the proposed legislation affect any treaty in existence. We in this country never have advocated a treaty, with one minor exception, and we did that specifically. So that argument, it seems to me, falls flat on its face, because we are not talking about treaties in existence.

I did not hear all of the speech of the Senator from South Carolina. I left the Chamber and enjoyed the cigar he gave me today, and I congratulated him. However, the argument that was just made was one I listened to 11, 12, and 15 years ago. The military do not want anything. They opposed the 12-mile limit. As I recall, in Geneva they must have had five admirals lobbying against the 12-mile limit, that it might affect navigation.

With respect to the provisions of the bill, navigation is totally unrelated to the military interests in the ocean, but its provisions expressly disclaim any congressional intent to affect navigation rights. [Secs. 2; 101; 102]

Even when Mexico put into effect the 200-mile limit, they protected all navigational rights and what all countries have done with the 12-mile limit.

The bill does not create any territorial sea. [Secs. 2; 101; 102] It has no intention to do so and cannot be interpreted that way, and any restrictions on commercial navigation by any other countries would have to come in an agreement with these countries all working it out, not because there is some bill about fishing. Fishing has nothing at all to do with this. [Secs. 2; 101; 102]

I enjoy the optimism of the Senator from South Carolina about this; but if he had been at many of these Law of the Sea conferences as long as I have, he would not have that kind of optimism. However, if that miracle should come through in March—and we all are going toward the same goal, as he says—then the bill says it is inoperative. [Sec. 401] So I cannot see that this has anything to do with that. [Sec. 401] It never was intended for navigation, for air rights, or any of these things. [Secs. 2; 101; 102]

Does the Senator think somebody is going to stop our flying over their country because we do not allow them to fish off our shores? In most of the places he is talking about, they do not fish off our shore, anyway.

I say to the Senator from South Carolina that we did make an agreement with Poland as to hake in the North Pacific. We gave them a quota—32,000 tons. We certainly were very generous. Does the Senator know why? There are no hake left. The Russians have fished them all out. They are gone. So we made a great concession there, after they were all gone. The Poles are not going to have much hake, and we have none.

First of all, the agreement which was referred to by the Senator from South Carolina does not set any fishery jurisdiction on coastal nations. It never did. It has to do with other phases of navigation.

Again, the bill does not affect any treaty in existence, and it is not intended to do so. [Secs. 2; 401] The Senator from Alaska and I would be the first to object if there were any indication that it did. [Secs. 2; 401]

Mr. STEVENS. Mr. President, I move to reconsider the vote on the three amendments that were previously adopted on a voice vote and ask unanimous consent that they be reconsidered en bloc.

The PRESIDING OFFICER (Mr. Gravel). Is there objection? Without objection, it is so ordered.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS RELATING TO S. 961

Mr. DURKIN. Mr. President, I rise today to express my enthusiastic support of S. 961, the Magnuson Fisheries Management and Conservation Act, which would establish vital new conservation measures urgently needed to save the New England fishing industry. [Secs. 2; 101; 102]

Foremost among the provisions of the proposed act is the creation of a 200-mile fishery conservation zone over which the United States will exercise exclusive fishery management jurisdiction. [Secs. 101; 102] While foreign fishermen would not be barred from the zone, they will be required to abide by the rules we establish to assure that fishing off our coasts will continue into the next century. [Secs. 2(c)(4); 201; 202(a); 202(b); 202(c); 204; 303(a)(1); 304(c); 307]

The measure is long overdue. Large foreign fishing fleets have robbed our coastal fishery resources. Our domestic industry has been decimated. At least 14 species of fish have been endangered. Countless jobs have been lost, and the price of fish has skyrocketed.

This act would begin to reverse that trend. [Sec. 2]

There are those who would urge that passage of this act be delayed until the conclusion of the United Nations Law of the Sea Conference. Unfortunately, an acceptable agreement has eluded such conferences for more than a decade now while foreign vessels continued to vacuum and package fish within sight of our coastal States.

If we act now, we will show the world we mean to put a stop to past encroachments, and, by our action, perhaps trigger an agreement at the United Nations conference. [Secs. 2(c)(5); 401]

If we fail to act, more jobs will be lost, entire species may soon become extinct and fish prices will continue to rise. [Sec. 2]

This legislation will not ring bells in Peoria or Topeka, Mr. President. But in Portland, Portsmouth, and Narragansett Bay, passage of this act will let our fishermen know that the United States still has the will to protect our own vital economic interests. [Sec. 2]

MR. METCALF. I rise in support of S. 961, the Fisheries Management and Conservation Act.

I do so although Montana has neither seacoast nor a fishing industry.

During the past few days, I have been visited by well-intentioned, but misguided people who have alleged that enactment of this legislation would wreck the United Nations Law of the Sea Conference.

On the basis of my personal knowledge of this Law of the Sea Conference, at this time there is no indication that from it will emerge a treaty with which the United States can live, and which this body will ratify.

I came into the law of the sea business in 1969, when Chairman Jackson appointed me to head a special Subcommittee on the Outer Continental Shelf.

Since then, we have held four hearings on the status of negotiations at the United Nations Law of the Sea Conference. The first was held on September 10, 1973, and published under the title "Status Report on Law of the Sea Conference." The second was held on September 17, 1974, and published as part 2 of the Status Report. The third, on June 4, 1975, was part 3. And we have just gone to press with part 4, the hearings held on October 29.

So far, the United Nations has been able to agree only on where to meet next. Now it is New York in late March.

From the deliberations at Geneva this past spring also came the "Informal Single Negotiating Test," which is a part of our hearing record of June 4. From the point of view of the United States, the kindest words I have heard about part one of the text is that it is an "unmitigated disaster." Part one deals with the regime and machinery for the seabed beyond national jurisdiction.

Part of our hearing record of October 29 is an article from the October 26 issue of the New York Times, by Mr. C. L. Sulzberger, headlined "The Path to Easy Failure."

One of the points he made is on how we stand in the world. As he put it:

An informal estimate by American diplomats reckons that in the present U.N. Assembly about 35 members are our friends, about 35 are neutral although rather hostile, and about 70 are sworn adversaries.

With a majority of the votes against us, I do not see how we can emerge from these negotiations with a treaty with which we can live. If we do so, I note that S. 961 will cease to exist. [Sec. 401] If and when the international community can agree to protect basic fishery resources, it can take over. [Sec. 401]

DECEMBER 19, 1975

Mr. MANSFIELD. Mr. President, I move to take up S. 961, the Fisheries Management and Conservation Act.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 961) to extend pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

Mr. STEVENS subsequently said: Mr. President, I move that the beginning of this matter, where the record shows that we have taken up this matter, we indicate that we have taken up the Magnuson Fisheries Management and Conservation Act of 1976.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to and the Senate proceeded to consider the bill (S. 961) which had been reported from the Committee on Commerce with an amendment in the nature of a substitute and an amendment to the title; reported adversely by the Committee on Foreign Relations; and reported from the Committee on Armed Services with amendments.

The amendment of the Committee on Commerce is to strike out all after the enacting clause and insert:

That this Act may be cited as the "Magnuson Fisheries Management and Conservation Act".

DECLARATION OF POLICY

[Sec. 2]

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) The coastal species of fish which inhabit the waters off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf, and the anadromous species which spawn in United States rivers and estuaries, constitute a valuable and renewable natural resource. This resource contributes to the food supply and economy of the Nation as well as to health and recreation.

(2) As a consequence of increased fishing pressure and because of the absence of adequate fishing management practices and controls, (A) certain stocks of such fish have been overfished to the point where their survival is threatened, and (B) other such stocks have been so substantially reduced in number that they could become similarly threatened.

(3) International agreements have not always prevented or terminated overfishing, nor have they halted the unnecessary reduction of this valuable resource. There is danger that further overfishing will occur before an effective international agreement on fishery management and jurisdiction can be negotiated, signed, ratified, and implemented.

(4) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade.

(5) Management of fisheries as common property resources has led to the use of excessive amounts of capital and labor in many fisheries. As a result, the profits earned by individual fishermen are low, potential economic benefits to the Nation are lost, and the fisheries are depressed industries.

(6) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be restored and maintained so as to provide optimum yields.

(7) A national program for management and conservation of the fishery resources subject to the jurisdiction of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, and to realize the full potential of the Nation's fishery resources.

(b) PURPOSES.—It is therefore declared to be the purpose of the Congress in this Act—

(1) to take immediate action to protect and conserve the fishery resources of the Nation by declaring management and conservation authority over such resources in a 200 nautical mile zone off the coasts of the United States;

(2) to extend the exclusive management jurisdiction of the United States over the fishery resources of the Continental Shelf and over anadromous species of fish which spawn in the rivers and estuaries of the United States; and

(3) to establish a national fishery management program to prevent overfishing, to rebuild overfished stocks, to insure conservation, and to realize the full potential of the Nation's fishery resources.

(c) POLICY.—It is further declared to be the policy of the Congress in this Act—

(1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the management and conservation of fishery resources, as provided in this Act;

(2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, other than that necessary for the management and conservation of fishery resources, as provided in this Act;

(3) to support and encourage international agreements for the management of highly migratory species of fish and to manage such species when found within the 200-mile zone on the basis of regulations adopted pursuant to such agreements; and

(4) to assure that the national fishery management program (A) utilizes, and is based upon, the best scientific information available; (B) involves, and is responsible to the needs of, interested and affected citizens; (C) promotes efficiency; (D) minimizes the costs of research, administration, management, and enforcement; and (E) is workable and effective.

DEFINITIONS

[Sec. 3]

SEC. 3. As used in this Act, unless the context otherwise requires, the term—

(1) "anadromous species" means those species of fish which spawn in fresh and estuarine waters of the United States and which migrate to ocean waters;

(2) "Board" means the Fishery Management Review Board established under section 204 of this Act;

(3) "coastal species" means all species of fish, other than highly migratory and anadromous species, which inhabit the water off the coast of the United States;

(4) "conservation" refers to all of the rules, regulations, conditions, methods, and other measures (A) which are required to rebuild and maintain, and useful in rebuilding and maintaining fishery resources and the marine environment; and (B) which are designed to assure that—

(i) a supply of food, and other products and recreational benefits, may be taken or obtained therefrom on a continuing basis.

(ii) irreversible or long-term adverse effects on fishery resources, or on the marine ecosystem as a whole are highly unlikely; and

(iii) there will be a multiplicity of options available with respect to future use of these resources;

(5) "Continental Shelf fishery resources" means living organisms of sedentary species which, at the harvested stage, are either (A) immobile, (B) in the seabed, or (C) unable to move except in constant physical contact with the seabed or subsoil of the Continental Shelf; including, but not limited to, the following species:

COLEENTERATA

Bamboo Coral—*Acarella* spp.;
 Black Coral—*Antipathes* spp.;
 Gold Coral—*Callogorgia* spp.;
 Precious Red Coral—*Corallium* spp.;
 Bamboo Coral—*Keratoisis*, spp.; and
 Gold Coral—*Parazoanthus* spp.

CRUSTACEA

Tanner Crab—*Chionecetes tanneri*;
 Tanner Crab—*Chinocetes opilio*;
 Tanner Crab—*Chionoecetes angulatus*;
 Tanner Crab—*Chionoecetes bairdi*;
 King Crab—*Paralithodes camtschatica*;
 King Crab—*Paralithodes platypus*;
 King Crab—*Paralithodes brevipes*;
 Lobster—*Homarus americanus*;
 Dungeness Crab—*Cancer magister*;
 California King Crab—*Paralithodes californienis*;
 California King Crab—*Paralithodes rathbuni*;
 Golden King Crab—*Lithodes aequispinus*;
 Northern Stone Crab—*Lithodes maia*;
 Stone Crab—*Menippe mercenaria*; and
 Deep-sea Red Crab—*Geryon quinquedens*.

MOLLUSKS

Red Abalone—*Haliotis refescens*;
 Pink Abalone—*Haliotis corrugata*;
 Japanese Abalone—*Haliotis kamtschatkana*;
 Queen Conch—*Strobus gigas*;
 Surf Clam—*Spisula solidissima*; and
 Ocean Quahog—*Arctica islandica*.

SPONGES

Glove Sponge—*Hippiospongia canaliculata*;
 Sheepswool Sponge—*Hippiospongia lachne*;
 Grass Sponge—*Spongia graminea*; and
 Yellow Sponge—*Spongia barbera*.

The Secretary, in consultation with the Secretary of State, may add to the foregoing list the name of any other species of living organism which he determines to be such a resource, upon publication of a notice to such effect in the Federal Register, and such species shall thereafter be considered to be included in the term.

(6) "Council" means a Regional Fishery Management Council established under section 202 of this Act;

(7) "fish" means all living marine organisms, including, but not limited to, finfish mollusks, crustaceans, marine mammals, and all other forms of marine animal and plant life (but not including birds);

(8) "fishery" means—

(A) one or more stocks of fish which can be managed as a unit for purposes of management and conservation and which are identified by the appropriate Council and the Secretary on the basis of geographic, scientific, technical, recreational, and economic characteristics; and

(B) the business, organized activity, or act of fishing for such stocks;

(9) "fishery conservation zone" means a zone contiguous to the territorial sea of the United States within which the United States exercises exclusive fishery management and conservation authority;

(10) "fishing" means the catching, taking, harvesting, or attempted catching, taking, or harvesting, of any fish for any purpose other than scientific research, and any activity at sea in support of such actual or attempted catching, taking, or harvesting;

(11) "fishing vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or of a type normally used for, fishing;

(12) "fishing-support vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or of a type which is normally used for, aiding or assisting one or more fishing vessels at sea in the performance of any support activity (except a scientific research vessel), including, but not limited to, supply, storage, refrigeration, or processing;

(13) "foreign fishing" means fishing by a vessel other than a vessel of the United States;

(14) "high seas" means waters beyond the territorial sea or the fishery conservation zone (or the equivalent thereof) of any nation;

(15) "highly migratory species" means species of the tuna which, in the course of their life cycle, spawn and migrate in waters of the ocean;

(16) "international fishery agreement" means any bilateral or multilateral treaty, convention, or agreement which relates to fishing and to which the United States is a party;

(17) "national standards" means the national standards for fishery management and conservation set forth in section 201(a) of this Act;

(18) "optimum", with respect to the yield from a fishery, means the amount of fish—

(A) which, if produced, will provide the greatest benefit to the Nation; and

(B) which is prescribed as such by the appropriate Council and the Secretary on the basis of the maximum sustainable yield from such fishery as modified by any relevant economic, social, and/or ecological factors;

(19) "person" has the meaning set forth in section 1 of title I, United States Code, and, in addition, includes any government, including a foreign government, any entity of a government, and a citizen of a foreign nation;

(20) "Secretary" means the Secretary of Commerce, or his delegate;

(21) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other territories and possessions of the United States;

(22) "stock", with respect to any fish, means a type, species, or other category capable of management as a unit;

(23) "United States", when used in the geographical context, includes all States; and

(24) "vessel of the United States" means any boat, ship, contrivance, or other craft, however propelled or moved, which is—

(A) designed, used, or capable of being used for navigation on or under water; and

(B) documented under the laws of the United States or which is registered under the laws of any State.

TITLE I—FISHERY MANAGEMENT JURISDICTION OF THE UNITED STATES

EXTENT OF JURISDICTION

[Sec. 101]

SEC. 101. (a) FISHERY CONSERVATION ZONE.—(1) There is established a zone contiguous to the territorial sea of the United States to be known as the fishery conservation zone. Within such zone the United States shall, except as provided in subsection (d) of this section, exercise exclusive fishery management authority. The inner boundary of this zone is a line formed by the seaward boundaries of the coastal States, and the outer boundary of this zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline by which the territorial sea is measured.

[Sec. 102]

(b) ANADROMOUS SPECIES.—The United States shall exercise, throughout the migratory range of each applicable species, exclusive fishery management authority over anadromous species of fish spawned in the fresh and estuarine waters of the United States: *Provided*, That such management authority shall not extend to such species during the time they are found within the territorial sea or the fishery conservation zone (or the equivalent thereof) of any other nation, as recognized by the United States.

[Sec. 102]

(c) CONTINENTAL SHELF FISHERY RESOURCES.—The United States shall exercise exclusive fishery management authority over Continental Shelf fishery resources to the depth at which such resources can be exploited.

[Sec. 103]

(d) **HIGHLY MIGRATORY SPECIES.**—The exclusive fishery management authority of the United States shall not include or be construed to extend to highly migratory species of fish. Such species shall be managed solely pursuant to international fishery agreements established for such purpose.

FOREIGN FISHING

[Secs. 201 ; 204]

SEC. 102. (a) GENERAL.—The Secretary and the Secretary of State, after consultation with the Secretary of the Treasury, may authorize foreign fishing within the fishery conservation zone, for anadromous species, or for Continental Shelf fishery resources, in accordance with the provisions of this section and subject where appropriate, to (1) title II of this Act, and regulations promulgated under such title, and (2) sections 301 and 302 of this Act.

(b) **ALLOWABLE LEVEL.**—(1) The allowable level of total foreign fishing, if any, shall be set upon the basis of the portion of the allowable catch of any fishery or stock of fish which cannot or will not be harvested by vessels of the United States. Annual allowed foreign fishing and annual fishing by vessels of the United States shall not, for any fishery or stock of fish, exceed the optimum yield thereof. For purposes of this subsection, the term "allowable catch" means the surplus, from any fishery or stock of fish, which can be taken without exceeding the applicable optimum yield.

(2) In determining the allowable level of total foreign fishing with respect to any particular fishery or stock of fish, the Secretary and the Secretary of State shall utilize the best available scientific information, including, but not limited to, catch and effort statistics and relevant data compiled and made available by any foreign nation.

(3) In determining the allowable level of foreign fishing for any particular nation, with respect to any fishery or stock of fish subject to the exclusive fishery management authority of the United States, the Secretary and the Secretary of State shall consider whether, and to what extent, the vessels of such nation have traditionally fished in such fishery or for such stock.

(c) **RECIPROCITY.**—Foreign fishing shall not be authorized for any foreign nation unless such nation satisfies the Secretary and the Secretary of State that it extends substantially the same fishing privileges to vessels of the United States, with respect to an equivalent fishery or stock of fish within its fishery conservation zone, or its equivalent, or for such nation's anadromous species or Continental Shelf fishery resources, if any.

(d) **CONDITIONS.**—The Secretary and the Secretary of State shall establish appropriate conditions on foreign fishing, which shall be complied with by any foreign-flag fishing or fishing-support vessel of any nation which is authorized to fish pursuant to subsection (a) of this section. Such conditions shall be consistent with the national standards, the fishery management plans, and the management regulations under title II of this Act.

(e) **MISCELLANEOUS.**—(1) The Secretary, through the National Oceanic and Atmospheric Administration shall verify the authenticity of foreign catch statistics and any other relevant data furnished for purposes of this section. The Secretary may require that observers be placed aboard foreign-flag fishing and fishing-support vessels authorized to fish pursuant to subsection (a) of this section, to the extent deemed necessary by the Secretary to ensure that accurate catch statistics are reported and that the applicable allowable level is not exceeded.

(2) The Secretary shall establish a schedule of reasonable fees which shall be paid to the Secretary by any foreign-flag fishing or fishing-support vessel authorized to fish pursuant to subsection (a) of this section. In determining the level of such fees, the Secretary may take into account the cost of management, research, administration, enforcement, the value of the fishing privilege, and other relevant factors. The fees charged may vary for different categories of fishermen, to the extent deemed reasonable and appropriate.

(3) All pertinent information relating to foreign fishing, including that which is authorized to be collected by the Secretary, shall be made available publicly and shall be published, in summary form where appropriate in the Federal Register.

(4) No vessel of a foreign nation authorized to fish pursuant to subsection (a) of this section shall engage in such fishing unless and until the owner or operator thereof establishes and maintains a place of business in the United States and names an agent in a State who is authorized to receive legal process.

(f) **PROHIBITION.**—Except as provided pursuant to this Act, it shall be unlawful for any vessel, or for any master or other person in charge of any vessel, except a vessel of the United States, to engage in fishing in the internal waters, the territorial sea, or the fishery conservation zone of the United States, or to engage in fishing for anadromous species or Continental Shelf fishery resources.

INTERNATIONAL FISHERY AGREEMENTS

[Sec. 202]

SEC. 103. (a) GENERAL.—(1) The Secretary of State, in cooperation with the Secretary, shall initiate and conduct negotiations with any foreign nation which, prior to the date of enactment of this Act, has been engaged in, or whose citizens have been engaged in, or wish to engage in, fishing within the fishery conservation zone of the United States, or for anadromous species or continental Shelf fishery resources. The Secretary of State, upon the request of and in cooperation with the Secretary, shall, in addition, initiate and conduct negotiations with any foreign nation in whose fishery conservation zone, or its equivalent, vessels of the United States are engaged, or wish to be engaged, in fishing, or with respect to anadromous species or Continental Shelf fishery resources as to which such nation asserts management authority and for which vessels of the United States fish, or wish to fish. The purpose of such negotiations shall be to conclude international fishery agreements to effectuate the purpose, policy, and provisions of this Act.

(2) Such agreements may include, but need not be limited to, agreements to provide for the management and conservation of—

(A) coastal species which are found both in the fishery conservation zone of the United States and in an adjacent foreign nation's equivalent of such zone;

(B) anadromous species which are found, during the course of their migration, in ocean areas subject to the fishery management authority of more than one nation, or which intermingle on the high seas with anadromous species originating in the rivers and estuaries of other nations;

(C) highly migratory species which may be covered by international fishery agreements; and

(D) coastal species or Continental Shelf fishery resources which are found in areas subject to the fishery management authority of any foreign nation, through measures which allow vessels of the United States to harvest an appropriate portion of such species in accordance with traditional fishing by vessels of the United States.

(b) **REVIEW.**—The Secretary of State shall immediately review, in cooperation with the Secretary, each treaty, convention, and other international agreement to determine whether the provisions of such agreements are consistent with the purposes, policy, and provisions of this Act. If any provision or terms of any such agreement are not so consistent, the Secretary of State shall initiate negotiations to amend or terminate such agreements by not later than September 30, 1976.

(c) **BOUNDARY AGREEMENTS.**—The Secretary of State is authorized and directed to initiate and conduct negotiations with adjacent foreign nations to establish the boundaries of the fishery conservation zone of the United States in relation to any such nation.

(d) **NONRECOGNITION.**—It is the sense of the Congress that the United States Government shall not recognize the claim of any foreign nation to a fishery conservation zone, or its equivalent, beyond 12 nautical miles from the baseline from which the territorial sea is measured, if such nation—

(1) fails to recognize traditional fishing activity of vessels of the United States, if any, within such zone;

(2) fails to recognize traditional fishing activity of vessels of the United States with respect to anadromous species or Continental Shelf fishery resources as to which such nation asserts management authority; or

(3) fails to recognize and accept that highly migratory species are to be managed by applicable international fishery agreements, whether or not such nation is a party to any such agreement.

TERMINATION OF TITLE

[Sec. 401]

SEC. 104. The provisions of this title shall expire and cease to be of any legal effect on such date as a law of the sea treaty (or other comprehensive treaty, convention, or agreement with respect to fishery jurisdiction, which the United States has signed or is a party to) shall come into force or be provisionally applied by the United States.

TITLE II—NATIONAL FISHERY MANAGEMENT PROGRAM

NATIONAL STANDARDS

[Sec. 301]

SEC. 201. (a) GENERAL.—Fishery management plans developed by the Councils, and management regulations promulgated by the Secretary, pursuant to this title, shall conform to the following national standards for fishery management and conservation:

(1) Management and conservation measures shall prevent overfishing and assure on a continuing basis, the optimum yield for each fishery.

(2) Management and conservation measures shall be based upon the best scientific information available.

(3) To the extent possible, an individual stock of fish shall be managed as a unit throughout its range and interrelated stocks of fish shall be managed as a unit or in close coordination.

(4) Management and conservation measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(5) Management and conservation measures shall, where appropriate, promote efficiency in the utilization of fishery resources.

(6) Management and conservation measures shall allow for unpredicted variations in fishery resources and their environment and for contingencies and possible delays in application.

(7) Management and conservation measures shall, where appropriate, minimize research, administration, and enforcement costs and shall avoid unnecessary duplication.

(b) GUIDELINES.—The Secretary shall establish guidelines, based on the national standards, for the Councils to follow in developing fishery management plans and in developing recommended regulations for the management and conservation of fisheries.

REGIONAL FISHERY MANAGEMENT COUNCILS

[Sec. 302]

SEC. 202. (a) ESTABLISHMENT.—There shall be established, within 120 days after the date of enactment of this Act, seven Regional Fishery Management Councils, as follows—

(1) The North Atlantic Fishery Management Council (hereafter in this title referred to as the "North Atlantic Council"). The North Atlantic Council, which shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, shall be concerned with the fisheries in the Atlantic Ocean seaward of such States.

(2) The South Atlantic Fishery Management Council (hereafter in this title referred to as the "South Atlantic Council"). The South Atlantic Council, which shall consist of the States of North Carolina, South Carolina, Georgia, and Florida, shall be concerned with the fisheries in the Atlantic Ocean seaward of such States.

(3) The Gulf of Mexico Fishery Management Council (hereafter in this title referred to as the "Gulf Council"). The Gulf Council, which shall consist of the States of Texas, Louisiana, Mississippi, Alabama, and Florida, shall be concerned with the fisheries in the Gulf of Mexico seaward of such States.

(4) The Pacific Fishery Management Council (hereafter in this title referred to as the "Pacific Council"). The Pacific Council, which shall consist of the States of California, Oregon, Washington, Idaho, and Alaska, shall be concerned with the fisheries in the Pacific Ocean seaward of California, Oregon, and Washington.

(5) The Caribbean Fishery Management Council (hereafter in this title referred to as the "Caribbean Council"). The Caribbean Council, which shall consist of the Virgin Islands and the Commonwealth of Puerto Rico, shall be concerned with the fisheries in the Caribbean seaward of such States.

(6) The North Pacific Fishery Management Council (hereafter in this title referred to as the "North Pacific Council"). The North Pacific Council, which shall consist of the States of Alaska and Washington, shall be concerned with the fisheries in the northern Pacific Ocean seaward of Alaska.

(7) The Outer Pacific Fishery Management Council (hereafter in this title referred to as the "Outer Pacific Council"). The Outer Pacific Council, which shall consist of the States of Hawaii, American Samoa, Guam, and the Trust Territories of the Pacific, shall be concerned with the fisheries seaward of such States.

(b) REPRESENTATION OF STATES.—Each Regional Fishery Management Council shall reflect the expertise and interests of the several identified States in the ocean area over which such Council is granted authority. Each identified State is entitled to three members on each applicable Council, except that in the case of the Caribbean Council, the Virgin Islands and Puerto Rico are entitled to four members each, and in the case of the North Pacific Council, Alaska is entitled to five members.

(c) APPOINTMENTS.—(1) The Governor of each State entitled to membership on a Council may submit to the President a list setting forth the names of individuals qualified to be appointed as members of such Council as representatives of each such State. The President shall appoint, by and with the advice and consent of the Senate, the members to represent each State in the number set forth in subsection (b) of this section, at least one of whom shall be a State official with expertise in fishery management. The terms of office of the members first taking office shall expire as designated by the President at the time of nomination—one at the end of the second year, one at the end of the fourth year, and one at the end of the sixth year. Successors to such members shall be appointed in the same manner as the original members, except that members who have faithfully attended and effectively contributed, in the public interest, to the functioning of such Council are eligible for reappointment. The terms of office of successors to such members shall expire 6 years from the date of expiration of the terms for which their predecessors were appointed. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of such term. As used in this paragraph, a "qualified" individual is one who is knowledgeable and capable of making sound judgments in the public interest with respect to the management and conservation of fishery resources.

(2) The President shall appoint, upon the recommendation of the Secretary, a Federal Government employee to serve on each Council as the representative of the Secretary.

(3) Members of a Council, who are not otherwise employed in any capacity by the Federal or any State or local government, shall receive compensation at the daily rate for GS-18 of the General Schedule, when engaged in the actual performance of duties for such Council, and all members shall be reimbursed for actual expenses incurred in the performance of such duties.

(c) POWERS AND FUNCTIONS.—In addition to any other function assigned under any other provision of this Act, each Council, in accordance with the provisions of this title—

(1) shall select a chairman;

(2) may appoint, and assign duties to, an executive director and such other full- and part-time employees as are necessary to conduct business, and persons to committees as provided in subsection (e) of this section;

(3) shall identify fisheries in need of conservation within its geographic area of authority;

(4) shall develop, and submit to the Secretary, an overall fishery management plan, including separate programs for each fishery, within its respective geographic area of authority, which is in need of management and conservation;

(5) shall develop, and submit to the Secretary, recommended regulations for the management and conservation of fish within its geographic area of authority;

(6) shall monitor fishing activity and review the impact of management regulations within its geographic area of authority and may recommend to the Secretary any appropriate amendments or changes therein;

(7) shall conduct public hearings, at appropriate times and in appropriate locations, so as to allow all interested persons an opportunity to be heard on (A) the overall fishery management plan; (B) any separate management program; (C) recommended regulations; and (D) any amendments to regulations;

(8) may otherwise carry out such other functions as are necessary and appropriate for the effective management and conservation of fishery resources within its geographic area of authority; and

(9) shall report to the Secretary on its activities, plans, programs, findings, and such other matters as are requested.

(d) SUPPORT.—The Secretary shall provide to each Council such administrative support as is necessary for effective functioning.

(e) **COMMITTEES.**—(1) Each Council shall establish, maintain, and appoint the members of, a scientific and statistical committee to assist it in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to management plans or recommended regulations. Each such committee shall be composed of (A) not more than six fisheries scientists and experts, and (B) the director of the appropriate regional research center of the National Marine Fisheries Service, who shall serve as the Chairman.

(2) Each Council shall establish and maintain ad hoc or standing committees for each individual fishery identified by it as in need of conservation, to the extent necessary to assist such Council in the preparation of (A) management programs, (B) recommended regulations, and/or (C) changes or amendments to existing plans or regulations. The members of such committees shall be appointed by the respective Councils, and they shall be selected to represent persons who are actually engaged in the fishery involved and to include other persons knowledgeable and interested in the conservation of such fishery.

(3) Members of the committees established pursuant to paragraph (1) and (2) of this subsection shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as provided in section 5703 of title 5, United States Code, for persons in Government service intermittently.

(f) **MISCELLANEOUS PROVISIONS.**—(1) No Council shall have any authority to develop a fishery management plan, or to recommend regulations, with respect to fisheries which are principally located in waters within the boundaries of a single State.

(2) Whenever a fishery extends beyond the geographic area of authority of a single Council, the appropriate Councils shall coordinate or combine their efforts as necessary.

MANAGEMENT REGULATIONS

[Sec. 303]

SEC. 203. (a) **GENERAL.**—As soon as practicable, each Council, or the Secretary, shall identify fisheries in need of conservation. The appropriate Council shall develop (1) a fishery management plan for each such fishery in the order needed; and (2) recommended management regulations as required for the implementation and maintenance of each such plan. Such Council shall submit each such plan and recommended regulations to the Secretary as soon as practicable. Such a plan shall include—

(A) a description of the fishery, including, but not necessarily limited to, the number of vessels involved; the type of gear used; the species of fish involved and their location; the costs likely to be incurred in management; the potential revenue from the fishery; the recreational interests in the fishery; and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(B) a summary of the best scientific information available with respect to the present and probable future condition of, and the maximum sustainable yield from the fishery;

(C) an assessment of (i) the capacity and desire of vessels of the United States to harvest the optimum yield from the fishery, and (ii) the surplus in the fishery which can be made available for foreign fishing without risk of overfishing; and

(D) any other relevant and appropriate information, data, and evaluations.

(b) **TYPE OF REGULATIONS.**—Recommended management regulations developed under subsection (a) of this section may—

(1) designate zones where, and designate periods when, fishing shall be limited to, or shall not be permitted, or shall be permitted only as to specified vessels or gear;

(2) establish a system which shall, directly or indirectly, limit access to a fishery on a basis which shall recognize, among other considerations, present participation in the fishery, historical fishery practices and dependence on the fishery, the value of existing investments in vessels and gear, the value of the fishing privilege, capability of existing vessels to direct their efforts to other fisheries, State limited access systems, history of compliance with applicable fishing regulations, the optimum yield of the fishery, and the cultural and social framework in which the fishery is conducted;

(3) establish limitations on the catch of fish in any fishery, based on area, species, size, number, weight, sex, incidental catch, total biomass or quotas, and other factors which are necessary for the conservation of such fish;

(4) prohibit, limit, condition, or require the use of specified types of fishing gear, vessels, or equipment for such vessels including devices which may be re-

quired solely or partially to facilitate enforcement of this title or the regulations issued hereunder;

(5) require a license or permit to be issued by the Secretary as a condition to engaging in any fishery, upon such terms as may be prescribed, including the payment of fees appropriate to the value of the fishing license or permit;

(6) require catch and other appropriate statistics from fishermen and processors; and

(7) mandate or encourage such other management and conservation measures as are necessary or appropriate to carry out the purposes of this Act.

[Sec. 304]

(c) **REVIEW.**—(1) the Secretary shall review each management regulation which is recommended and submitted to him by Council to determine whether it is consistent with (A) the national standards and (B) the provisions and requirements of this Act and any other applicable law, before he issues a notice of proposed rulemaking regarding management regulations for the applicable fishery. If such recommended regulations are determined to be so consistent, the Secretary shall adopt them and shall publish, immediately thereafter, a notice of proposed rulemaking with regard thereto. If the recommended regulations are determined not to be so consistent, the Secretary shall notify the applicable Council of such inconsistency and shall indicate the changes that are necessary to make such recommended regulations so consistent. Such Council may change the recommended regulations to make them consistent: *Provided*, That if the Council does not make the necessary change within 60 days after it receives notice from the Secretary, the Secretary shall make the necessary changes and shall, thereupon, issue the notice of proposed rulemaking.

(2) If any recommended management regulations involve methods and procedures for enforcement at sea, the Secretary shall consult with the Secretary of the department in which the Coast Guard is operating.

(3) If any recommended management regulations would apply to foreign fishing, the Secretary shall consult with the Secretary of State.

[Sec. 305]

(d) **PROPOSED RULEMAKING.**—The Secretary shall publish, in the Federal Register, any management regulations which he proposes to promulgate pursuant to this Act. Each such notice (1) shall request comment thereon; (2) shall designate the fishery or fisheries to which they apply; and (3) shall summarize the recommendations of the applicable Council or Councils, including where appropriate, an explanation of how the proposed regulations differ from those so recommended and the reasons therefor.

[Sec. 305]

(e) **REGULATIONS.**—The Secretary is authorized to promulgate regulations, in accordance with the provisions of this title and section 553 of title 5, United States Code, without regard to subsection (a) thereof, to govern fishing by vessels of the United States and foreign fishing (1) within the fishery conservation zone (and vessels of the United States fishing for coastal species beyond such zone), (2) for anadromous species, and (3) Continental Shelf fishery resources. In addition, such regulations shall pertain to, but need not be limited to, the operation of the Councils, the setting of fees, procedures for obtaining data and statistics relating to fishing, and other matters relating to the purposes of this Act. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments, with any coastal State, and with any foreign nation, through the Secretary of State, and for consideration of the views of any interested member of the general public. The Secretary is further authorized, consistent with the purposes and provisions of this title, to amend or rescind any such regulations.

[Sec. 305 (e)]

(f) **EMERGENCY ACTION.**—If the Secretary determines that an emergency situation exists requiring immediate action in the national interest to protect any fishery resources, he shall prepare and promulgate emergency management regulations as soon as practicable. Such regulations shall be issued in accordance with the provisions of section 553 of title 5, United States Code, without regard to subsection (a) thereof.

[Sec. 305]

(g) **ACTION BY GENERAL PUBLIC.**—Any coastal State, or any interested member of the general public, may nominate a fishery as a fishery in need of regulation, by submitting a written statement to the Secretary identifying such fishery and

describing the reasons why it should be managed. The Secretary shall promptly forward each such nomination to the appropriate Council for action.

[Sec. 304(a) (2)]

(h) **OVERVIEW.**—The Secretary shall from time to time review the actions of the Councils to determine whether the Councils are acting in timely fashion. If the Secretary determines that a Council has failed to recommend management regulations for any fishery within a reasonable time, he shall prepare management regulations and submit them to such Council. Such Council may make changes in such regulations consistent with the national standards: *Provided*, That if such Council does not make such changes within 45 days after it receives such a submission from the Secretary, the regulations shall stand, and the Secretary shall issue a notice of proposed rulemaking with regard to such regulation.

[Sec. 304(e)]

(i) **FISHERIES RESEARCH.**—The Secretary shall initiate and maintain a program of fisheries research designed to acquire knowledge and information, including statistics, on fishery management and conservation, including, but not limited to, biological research concerning interdependence of species, the impact of pollution, the impact of wetland and estuarine degradation, and other factors bearing upon the abundance and availability of fish.

FISHERY MANAGEMENT REVIEW BOARD

[Not Incorporated into Public Law 94-265]

SEC. 204. (a) ESTABLISHMENT.—There is established an independent instrumentality to be known as the Fishery Management Review Board. The Board shall have exclusive and original jurisdiction to hear the appeals described in subsection (c) of this section.

(b) **MEMBERSHIP.**—(1) The Board shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. Of such members at least three shall be individuals who shall be appointed by the President from a list of qualified individuals submitted to the President by the National Governor's Conference, such list to consist of not less than three such individuals for each vacancy. Members of the Board shall not engage in any other business, vocation, or profession during their term of office. As used in this paragraph, a "qualified" individual is one who is knowledgeable and capable of making sound judgments with respect to appeals before the Board.

(2) The members of the Board shall be appointed for a term of 3 years, except that (A) the terms of office of the member first taking office shall expire as designated by the President at the time of nomination; and (B) any individual appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and in the same manner in which such predecessor was appointed. Successors to the members of the Board first taking office shall be appointed in the same manner as the original members. Each member of the Board shall be eligible for reappointment.

(3) The members of the Board shall select one of their number to serve as Chairman.

(4) The Board is authorized to appoint an executive secretary and such administrative law judges and other employees as are necessary for the proper performance of its duties.

(c) **APPEALS TO THE BOARD.**—(1) Any person who is adversely affected or aggrieved by, or who suffers legal wrong through, (A) any final management regulation promulgated by the Secretary pursuant to this title, or (B) a decision by the Secretary to issue, transfer, revoke, suspend, modify, or renew a license or permit, may obtain review of such action by the Board not later than 60 days after the date of publication of such final regulation or decision.

(2) Any Council whose recommended management regulations were determined by the Secretary to be not consistent with the national standards may obtain review of the Secretary's action by the Board if it files a request therefor with the Board not later than 60 days after the date of publication of any final management regulation involved.

(3) In any action under this section, the Secretary or any affected Council, if not a party, may intervene as a matter of right.

(4) Review proceedings under this section shall be in accordance with the provisions of section 554 of title 5, United States Code. To the extent possible, such proceedings shall be held in the locality closest to the fishery involved. If

the Board finds that justice so requires, it may issue an order (A) postponing the effective date of an action of the Secretary or (B) preserving the status or rights of any person, pending the outcome of such review proceedings.

(d) **REVIEW STANDARD.**—(1) In any review requested by a Council relating to any management regulation, the Board shall uphold the action of the Secretary unless it finds that his action—

(A) was not consistent (i) with the national fishery standards or (ii) with the provisions and requirements of this Act or any other applicable law;

(B) was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(C) was contrary to constitutional right, privilege, power or immunity;

(D) was clearly not supported by the facts and record available to the Secretary; or

(E) did not observe the procedure required by this Act or other law.

If the Board does not uphold the action of the Secretary, it shall enter a final decision declaring such action invalid together with the reasons therefor; remanding the matter to the Secretary; and directing the Secretary to take, after consultation with the affected Council, appropriate action.

(2) In an appeal relating to any other matter, the scope of review shall be as set forth in section 706 of title 5, United States Code.

(e) **POWERS.**—(1) The Board or any member thereof may, for the purpose of carrying out the provisions of this section, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or other order the attendance and testimony of such witness and the production of such evidence as the Board or member deems advisable. Subpenas may be issued under the signature of the Chairman of the Board, or that of any duly designated member of the Board, and may be served by any person designated for such purpose by such Chairman. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Such attendance of witnesses and production may be required from any place in the United States to any place designated for such hearing.

(2) In case of refusal to obey a subpoena or other order, issued under paragraph (1) of this subsection, by any person who resides, is found, or transacts business within any judicial district of the United States, the district court of the United States for any such district shall have jurisdiction and shall, upon the request of the Chairman of the Board, issue to such person an order to appear and produce evidence. Any failure to obey such an order shall be punishable by such court as a contempt of court.

(3) The Administrator of General Services shall furnish the Board with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(f) **COMPENSATION.**—Members of the Board shall be compensated at the rate provided for level V of the Executive Schedule (5 U.S.C. 5316), and shall be reimbursed for travel expenses, including per diem in lieu of subsistence.

(g) **JUDICIAL REVIEW.**—Any person who is adversely affected or aggrieved by, or who suffers legal wrong through, a decision of the Board may, not later than 60 days after the date of any such decision, seek judicial review of such decision in the United States Court of Appeals for the circuit nearest to the fishery involved.

RELATIONSHIP TO STATE LAWS

[Sec. 306]

SEC. 205. Nothing in this Act shall be construed to extend the jurisdiction of any State over any natural resources beneath and in the waters beyond its seaward boundaries, or to diminish the jurisdiction of any State over any natural resource beneath and in the waters within its boundaries.

INTERSTATE COOPERATION AND UNIFORM LAWS

[Not Incorporated into Public Law 94-265]

SEC. 206. The Secretary shall encourage cooperative action by the States and Councils for the management and conservation of coastal and anadromous species of fish and Continental Shelf fishery resources, and shall encourage, insofar as practicable, the enactment of improved and uniform State laws relating to the management and conservation of such fish.

TITLE III—MISCELLANEOUS PROVISIONS

PROHIBITED ACTS AND PENALTIES

[Sec. 307]

SEC. 301. (a) PROHIBITED ACTS.—(1) It is unlawful for any person to—

(A) violate any provision of this Act, or any regulation issued hereunder, regarding fishing within the fishery conservation zone or with respect to anadromous species or Continental Shelf fishery resources;

(B) violate any provision of any international fishery agreement to which the United States is a party and which is negotiated or reviewed pursuant to this Act, to the extent that such agreement applies to or covers fishing within the fishery conservation zone;

(C) ship, transport, purchase, sell or offer for sale, import, export, possess, control, or maintain in his custody any fish taken in violation of paragraph (A) or (B) of this subsection, if such person knew or had reason to know that such taking was not lawful;

(D) refuse to permit a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, to board a fishing vessel or fishing-support vessel subject to his control, if the purpose of such requested boarding is to inspect the catch, fishing gear, ship's log, or other records or materials aboard such vessel; or

(E) fail to cooperate with a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, engaged in a reasonable inspection pursuant to paragraph (D) of this subsection, or to resist any lawful arrest.

(2) For the purposes of this section, it shall be a rebuttable presumption that all fish found on board a vessel seized in connection with an act prohibited under this section were taken or retained in violation of this Act.

[Sec. 309]

(b) CRIMINAL PENALTIES.—Any person who willfully commits an act prohibited by subsection (a) of this section shall, upon conviction, be fined not more than \$100,000 or imprisoned for not more than 1 year, or both.

[Sec. 310]

(c) CIVIL FORFEITURE.—(1) Any district court of the United States shall have jurisdiction, upon application by the Secretary or the Attorney General, to order forfeited to the United States any fish or fishing gear, used, intended for use, or acquired by, activity in violation of any provision of subsection (a) of this section. In any such proceeding, such court may at any time enter such restraining orders or prohibitions or take such other actions as are in the interest of justice, including the acceptance of satisfactory performance bonds in connection with any property subject to civil forfeiture.

(2) If a judgment is entered for the United States under this subsection, the Attorney General is authorized to seize all property or other interest declared forfeited upon such terms and conditions as are in the interest of justice. All provisions of law relating to the disposition of forfeited property, the proceeds from the sale of such property, the remission or mitigation of forfeitures or violation of the customs laws, and the compromise of claims, shall apply to civil forfeitures incurred, or alleged to have been incurred, under this subsection, insofar as applicable and not inconsistent with the provisions of this section. Such duties as are imposed upon the collector of customs or any other person with respect to seizure, forfeiture, or disposition of property under the customs laws shall be performed with respect to property used, intended for use, or acquired by activity in violation of any provision of subsection (a) of this section by such officers or other persons as may be designated for that purpose by the Secretary.

ENFORCEMENT

[Sec. 311]

SEC. 302. (a). GENERAL.—The provisions of this Act shall be enforced, together with regulations issued hereunder, by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, or any State agency, in the performance of such duties.

(b) **POWERS.**—Any person, duly authorized pursuant to subsection (a) of this section, may—

(1) board and inspect any fishing vessel or fishing-support vessel which is within the fishery conservation zone, or which he has reason to believe is fishing for anadromous species or Continental Shelf fishery resources;

(2) arrest any person, with or without a warrant, if he has reasonable cause to believe that such person has committed an act prohibited by section 301(a) of this title;

(3) execute any warrant or other process issued by an officer or court of competent jurisdiction; and

(4) seize all fish and fishing gear found aboard any fishing vessel or fishing-support vessel which is engaged in any act prohibited by section 301(a) of this title.

[Sec. 311(d)]

(c) **COURTS.**—The district courts of the United States shall have exclusive jurisdiction over all cases or controversies arising under this Act, except as provided in section 204 of this Act. Such courts may issue all warrants or other process, to the extent necessary or appropriate. In the case of Guam, actions may be brought and process may be issued by the District Court of Guam; in the case of the Virgin Islands, by the District Court of the Virgin Islands; and in the case of American Samoa, by the District Court for the District of Hawaii. The aforesaid courts shall have jurisdiction over all such cases and controversies without regard to the amount in controversy or the citizenship of the parties.

REPEAL

[Sec. 402(a)]

SEC. 303. (a) The Act of October 14, 1966 (16 U.S.C. 1091-1094), is repealed.

[Sec. 402(b)]

(b) The Act of May 20, 1964 (16 U.S.C. 1081-1086), as amended by the Act of July 26, 1968 (82 Stat. 445), is repealed.

AUTHORIZATION FOR APPROPRIATIONS

[Sec. 406]

SEC. 304. There are authorized to be appropriated for the purposes of this Act—

(1) to the Secretary such sums as are necessary, not to exceed \$22,000,000 for the fiscal year ending June 30, 1976; not to exceed \$5,500,000 for the transitional fiscal quarter ending September 30, 1976; and not to exceed \$22,000,000 for the fiscal year ending September 30, 1977; and

(2) to the Secretary of the department in which the Coast Guard is operating such sums as are necessary, not to exceed \$13,000,000 for the fiscal year ending June 30, 1976; not to exceed \$3,250,000 for the transitional fiscal quarter ending September 30, 1976; and not to exceed \$13,000,000 for the fiscal year ending September 30, 1977.

The title was amended by the Committee on Commerce, as follows: "A bill to extend, pending international agreement, the fishery management and conservation authority of the United States, and for other purposes."

The amendments of the Committee on Armed Services are as follows:

[Sec. 202]

On page 44, in line 16, strike out "September 30, 1976" and insert "January 1, 1977".

On page 71, beginning with line 3, insert:

TITLE IV—EFFECTIVE DATE

[Sec. 104]

SEC. 401. This Act shall take effect on January 1, 1977.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, for the record, I ask the distinguished majority leader whether it is contemplated that this measure, which is a controversial measure, will be considered prior to the adjournment of the Senate.

The PRESIDING OFFICER. The Chair advises the distinguished majority leader that a question has been directed to him.

Mr. MANSFIELD. What was the question?

Mr. WILLIAM L. SCOTT. Mr. President, just for the record, and I believe I know the answer, I ask the distinguished majority leader whether it is contemplated that any action will be taken on this bill prior to the adjournment of the Senate? The reason I ask this is that the Committee on Armed Services had a closely divided vote, and I am sure it was considered by other committees. I am hopeful that nothing will be done on this bill until—no action, no final passage be taken until next year. I ask the majority leader for the record, if he will respond to this.

Mr. MANSFIELD. Yes, Mr. President, to use a colloquialism, no way.

Mr. WILLIAM L. SCOTT. I thank the distinguished majority leader.

Mr. MANSFIELD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MUSKIE. What is the pending business?

The PRESIDING OFFICER. The Chair states the pending business is S. 961.

Mr. MUSKIE. The so-called 200-mile-limit bill?

The PRESIDING OFFICER. That is right, Calendar No. 498.

Mr. MUSKIE. Mr. President, I am delighted the Senate has before it for preliminary consideration this legislation on which so many of us have worked for so long and which we have been interested in for so long.

As I understand it, we do not expect to get to the final vote on this legislation today and that it will be made the pending business, and that it will be the pending business upon our return in January, but I thought this might be a good opportunity to at least lay down some of the initial points in this debate which, I gather, will be hotly contested when we get down to it later on.

It is my hope, Mr. President, that this will be the final and the successful debate on the Fisheries Management and Conservation Act, legislation which will extend U.S. fisheries jurisdiction over a 200-mile zone. [Sec. 101]

For too many years, Mr. President, our fishermen—

The PRESIDING OFFICER. The Senator will suspend. The Senator is entitled to be heard. The Senate will be in order.

The Senator from Maine may continue.

Mr. MUSKIE. For too many years our fishermen have been unprotected from the ravages of foreign fleets fishing off our shores and for too long the Federal Government has delayed taking action to provide relief in the vain hope that international solution would be developed.

We can no longer afford to await such solutions and must enact this legislation to provide the interim protection which our fishermen so desperately need. [Sec. 401] The international agreements which are now in place represent hopeful progress but are clearly inadequate to provide the interim protection which our fish stocks need.

Maine's experience demonstrates quite clearly how serious the situation is. In 1950, Maine fishermen landed 353 million pounds of fish of all species. By 1970, that total had been cut by more than half, and in 1974, fish landings totaled only 148 million pounds.

For individual species of fish, the statistics are even more dramatic. Since 1966, Maine's whiting catch has declined by 90 percent, from 30 million pounds to 3 million pounds in 1975. The catch of sea herring has declined 75 percent; ocean perch, 61 percent; cod, 30 percent; pollock, 42 percent; and haddock, 97 percent, from 6.5 million pounds in 1950 to 220,000 pounds last year.

At present, the United States is party to 22 international fishing agreements and virtually all of the fish stocks depleted or threatened with depletion are subjects of those agreements. Obviously, further steps must be taken to prevent the depletion of our offshore stocks—for the sake of conserving the world's fisheries resources as well as preserving the U.S. fishing industry. [Secs. 2; 102]

The key to a 200-mile limit worldwide, according to the U.S. position at the Law of the Sea Conference is a responsibility that Coastal States have to insure the highest and best use of offshore resources.

I concur. But I think the major fishing nations of the world are demonstrating no great sense of responsibility toward our offshore stocks, and no great sense of urgency toward reaching agreement at the Law of the Sea Conference.

And I think the United States has a responsibility to protect our stocks of fish from extinction pending the conclusion of a new regime for the oceans. If we ignore our responsibility, the Japanese, the Russians, or the English and the Polish, will certainly not step forward to accept it.

To meet that responsibility, I believe the United States should adopt a 200-mile fisheries management zone. [Sec. 101] on a temporary basis, until the international community can reach agreement on an enforceable regime for the world's oceans. [Sec. 401]

I believe the 200-mile limit is also important as a sign of good faith to our fishery industry. Our fishermen in Maine and nationwide are an independent group. They have not been anxious for regulation of any kind, and in fact, they suffer under various Government restrictions and tariffs which hamper their ability to compete.

They seek no relief from these restrictions. But the 200-mile limit has become a symbol—a rallying cry for fishermen who see the livelihood of generations threatened by rapacious foreign competition.

Government's failure to adopt a 200-mile limit will be nothing more than a desertion of this traditional segment of our economy.

This legislation is among the most important we will be considering this year. For the first time the way seems clear toward this legislation actually becoming law. The House has approved similar legislation and there are some hopeful indications that the President will look favorably on the measure if full implication is continued until after the next round of Conferences on the Law of the Sea.

I welcome those signs and encourage the President to sign the legislation when it reaches his desk. It is important not only for our own domestic fishery but for the preservation of the worldwide fisheries resource. [Sec. 2] The issue before us today is not who should manage the fisheries resource within 200 miles from our shore [Sec. 101] but whether in fact any efforts will be made to protect the resource and insure effective conservation management. [Sec. 102]

Opponents of this bill argue that recent international agreements have made great gains in reducing foreign fishing off U.S. shores and has diminished or removed the need for 200-mile-limit legislation. Unfortunately, this is not the case and the international agreements now in place provide only minimal protection and frequently institutionalize overfishing practices. A recent editorial by Mary Brewer in the Boothbay Register on December 4 effectively rebuts that claim by recounting the experience of New England fishermen under ICNAF regulations.

Mr. President, I ask unanimous consent that that editorial be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, at this point, I quote from her remarks only as follows:

ICNAF is certainly not successfully protecting its own fishermen, and, even if it is trying in some areas, the other participating countries are not abiding by the rules, anyway. Despite an ICNAF agreement that only two countries, the United States and Canada, can fish for herring in an area off the New England coast known formally as subarea 5Y, other continue to fish there.

Whenever these infractions take place outside the 12-mile limit, this country can only give them citations, but can take no other punitive actions. It is up to the country whose vessel has been cited to hand down the punishment, and, in most cases, there is little or no punishment. In Poland and Russia, the two most flagrant violators of ICNAF rules, the vessels are government-owned, and it isn't very likely that the government is going to punish its own vessels and their captains.

Opponents also argue that this legislation will threaten national security interests by encouraging other nations to unilaterally abrogate our rights of free transit and overflight. As an official advisor to the U.S. delegation, I attended the meetings in Caracas last summer and talked with many foreign delegates. In none of my conversations was there any indication that the major nations of the world would react to our passing a 200-mile fish limit bill by immediately ending our rights of free transit and overflight. Of course, in some of these talks, foreign delegates expressed reservations about Americans enacting interim 200-mile fish limit legislation. But my best guess is that their first reaction, after denouncing the legislation, would be to negotiate at the next session of the U.N. Conference with a new sense of urgency, and that is really what we need. [Sec. 2(c)(5)]

It is important to understand that this legislation will not prohibit other nations from fishing in the 200-mile zone. [Secs. 2(c)(4); 201; 202; 204; 302(h)(5); 303(a); 304(b)(1); 307(2)(B); 311(e)(1)] In fact, it would preserve the rights of nations which have traditionally fished off our shores. But it would reserve to the United States the right to manage our offshore fish stocks to assure their best, and most prudent use. [Secs. 2; 102]

Mr. President, I urge the Senate to consider this legislation favorably and to give it the kind of support which it gave to the same legislation a year ago, having acted then in concert with the other House.

We can then put the issue before the President and, I might add, before those nations which are legislating in the Law of the Sea Conference and perhaps lend a sense of urgency to our efforts. [Sec. 2(c) (5)]

I close, Mr. President, with an apology to my good friend, the floor manager of the bill (Mr. Magnuson), for using his time. I was simply killing time until the Senator arrived.

I would like to express my appreciation to Senator Magnuson and to Senator Stevens for their efforts over the past several years to bring this legislation to this point.

Without their efforts, the efforts of the rest of us would have, I think, fallen far short of what was necessary to move this legislation to the point where it now is.

With that expressed appreciation to both of them—they are both on the floor now—I yield the floor so that they may take it and present the issue finally to the Senate.

EXHIBIT 1

ICNAF RULES ARE NOT BEING FOLLOWED BY FOREIGN FISHING FLEET

(By Mary Brewer)

Repeated violations of the 12-mile limit by Polish fishing vessels—and other foreign fleets—lend added support to the need for a 200-mile limit in which this country can control fishing operations off its own coast.

Two stories appearing recently in the Gloucester (Mass.) Daily Times really do a job in explaining what is happening. In one story, staff writer Tim Sullivan reports that despite the seizure of one ship already, Polish trawlers are continuing to fish inside the 12-mile limit, according to reports being received almost daily by the Coast Guard.

While it was felt that seizure of the factory ship Humbak a couple of weeks ago would act as a deterrent, officials report that violations have increased, if anything. The reason the Polish fleet continues to risk seizure, and fish inside the limit is because they are chasing herring, which are migrating shoreward. Not only are these foreign vessels illegally fishing inside, but they have already caught their quotas of herring. Thus, they are breaking the rules established by ICNAF two-fold. Boarding the Polish trawler Likowal just outside the 12-mile limit last week but still inside the closed herring area, showed that 12 metric tons of a 50-ton total in the holds was herring. The most recent catch still unprocessed on board the Likowal at the time of the inspection showed 22 tons of fish, 18 tons of which was herring.

While the vessel was given a citation, it's up to the home government of the offending nation to deal with the offense whenever these vessels are boarded outside the 12-mile limit and found to be violating ICNAF regulations.

Meanwhile, as the foreign vessels continued to fish inside for herring at the risk of being caught, a Gloucester fisherman complained to officials that the ICNAF regulation of yellowtail flounder was going to put him out of business. Making his living in a 70-ft. dragger, he has been catching yellowtail flounder off New Bedford this summer. His boat, and another 100 boats of similar size, can no longer run 200 to 300 miles out onto Georges Bank due to the poor weather conditions in the fall and winter, yet, according to ICNAF regulations, they can't fish inside for yellowtails either, since it is prohibited.

He is a little bitter about the fact that the reason the inshore fishery is closed is because foreign fishing boats, much larger and more modernized, have been allowed to take all the fish, break all the rules, and still keep fishing, while this country's own boats and crews must suffer the consequences.

He complained that he now has two choices: either continue to fish illegally, or tie up his boat. In talking with National Marine Fisheries Law Enforcement Division personnel, he was quickly told that he must abide by the rules, and if that means tying up his boat, he must do so.

However, the fisherman said that in 30 years of fishing he has never ever thought it better to collect welfare than to fish. He has five children, and says that counting his crew members and their families, if he ties up his boat, there will be 23 people in all added to the welfare load in Gloucester. This, he said,

can be multiplied by 100 other similar size boats and crews who are in the same situation—now that the inshore fishery has been cleaned out by foreign fishing fleets, they are about to be put out of business, because they just can't compete with the huge, modern, fishing vessels of other countries, which are capable of fishing far offshore. Despite this ability, however, these foreign fishing vessels continue to come in as close to shore as they feel they can, to scoop up the fish before scurrying back across the 12-mile line to safety.

ICNAF is certainly not successfully protecting its own fishermen, and, even if it is trying in some areas, the other participating countries are not abiding by the rules, anyway. Despite an ICNAF agreement that only two countries, the United States and Canada, can fish for herring in an area off the New England coast known formally as subarea 5Y, others continue to fish there.

Whenever these infractions take place outside the 12-mile limit, this country can only give them citations, but can take no other punitive action. It is up to the country whose vessel has been cited to hand down the punishment, and, in most cases, there is little or no punishment. In Poland and Russia, the two most flagrant violators of ICNAF rules, the vessels are government-owned, and it isn't very likely that the government is going to punish its own vessels and their captains.

No wonder it's a bit discouraging to draggers, seiners, and other American fishermen, who can't help but feel that they are being sold out by their own country. No wonder they find it extremely difficult to understand why their own country permits foreign fishing vessels to catch inshore fish which are their very livelihood, leaving them little choice but to either break the rules, as they see the foreign fishing boats doing, or reluctantly leave the fishing industry for a job ashore. Most fishermen don't feel that they are asking their country for an unreasonable request when they stress the need for a 200-mile limit. All they really want is a chance to earn a reasonable living without having to try to compete against government-subsidized foreign fishing fleets.

Mr. MAGNUSON. Mr. President, I am glad that the Senator from Maine led off this debate. I did not hear all he had to say, but I know he made some pertinent remarks as to why this bill should be approved by the Senate.

He did point out, and I repeat, that we passed this bill last year in the Senate, a bill almost word-for-word to this bill, with the exception of the time limitation.

The vote, I think, was 68 to 27. The House did not take it up last year, but they did this year, and the vote over in the House in favor of the bill was over two to one. We have it back now and I can see no difference between the situation last year than the situation now.

As a matter of fact, if we got 68 votes for it in the Senate last year, we ought to get about 78 now, because the situation has grown worse.

We were sympathetic to having a meeting in Caracas and Geneva and found out from many of the people of the Senate that went there that just nothing was going to happen.

No one argues the point that probably the best way to do it would be to have a Law of the Sea Conference and a treaty which we thought was feasible and workable. That would be a better way to do it, of course. But we have waited and waited and waited and waited. I have listened to testimony from the State Department and the rest of them. It is just like a broken record over and over. Wait, give us another chance, and all they have done is move from one place to another.

They were going to Vienna. That is a great seaport and they know all about fishing in Vienna. It is a different kind of fishing, I guess, that goes on.

But we have just waited and waited.

I attended my first Law of the Sea Conference, Mr. President, 17 years ago in Geneva and our Navy was over there lobbying against the 12-mile limit at that time. I objected to them doing that.

It has just gone on and on and on. In the meantime, the fish stocks are going down and down.

This is a conservation measure and all we are suggesting is that, in the meantime, while we wait for a treaty to come out of Law of the Sea Conference, we are going to protect our own fish stocks. [Sec. 401]

I mentioned the Navy. The bill only deals with fishing. It has nothing to do with navigation. It has nothing to do with mineral rights in the bed of the sea or oil rights, at all. It is just fishing. [Sec. 2(c)] The oil will be there when they can arrive at some agreement, and so will the minerals, but the fish will not. They cannot wait.

There has been so much misinformation about this thing in the first place.

Mr. MUSKIE. Will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. MUSKIE. I think this is an important point to emphasize and I rise only for that purpose.

There are so many people who confuse this 200-mile management zone as a territorial sea zone, as a territorial power that compares with the old 3-mile limit.

There is just no comparison. We do not touch any of those values. [Sec. 2(c)]

The notion we cannot protect our fish stocks without changing the territorial boundaries is just as unrealistic as can be.

Some of these other questions the Senator mentions are not touched by this bill. What we are talking about is managing and conserving the depleting fish stocks off our shores. [Sec. 2]

If we do not do it, there is no other power on Earth moving in to do it. So when we talk about protecting them, we talk about protecting them not only for our own fishermen and for our own population's food requirements, but we are talking about protecting them for the world's food requirements. [Sec. 2] I believe that is a very important point to make. The Senator has made that so well that I wanted to emphasize it.

Mr. MAGNUSON. I have some details, which I shall not bring up tonight. I have asked unanimous consent to have printed in the Record a lengthy statement, pointing out many of the things that the Senator from Maine has talked about. I ask that be printed at this point in the Record.

There has been a lot of misapprehension and there have been a lot of misstatements peddled about this bill. I do not know where they get their information.

Mr. President, there has been considerable misinformation spread around about the status of our fisheries. Lawyers in the Department of State and not the fisheries managers and biologists of the Department of Commerce are controlling the flow of this information. Nearly every Senator has been visited by Ambassador John Norton Moore, of the State Department, who is not a fisheries expert but rather is a lawyer. To set the record straight, since Ambassador Moore may have painted a rather rosy picture of the status of our fish stocks. I asked former Ambassador Donald McKernan, previously our chief fisheries negotiator, to comment on, first, the status of our fisheries; second, the results of recent international agreements; and third, the outlook for the U.N. Law of the Sea Conference.

The following is a sample of his expert assessment of the situation :

I have concluded that it is unlikely that an acceptable Law of the Sea Convention can or will be negotiated in 1976 and probably not in 1977.

There is no assurance that "many" of our fisheries will be rehabilitated in six to seven years as a result of recent bilateral or multilateral actions by our government. We do not have adequate control over foreign fishing, neither adequate surveillance nor enforcement, to be at all certain we will ever be able to rehabilitate those fisheries depleted by foreign fishermen unless we achieve greater control over the activities of those fishermen.

I would like to state unequivocally that I believe that this very large stocks of fish being fished by foreign fishermen off the Pacific Coast of the United States and off Alaska continue to be overfished by these nations.

Without control by the United States over the intermediate zone between 12 and 200 miles, it is unlikely that our fishermen will be able to take advantage of the opportunity to expand U.S. fisheries.

It should be noted that, until the conclusion of the Geneva session of the Law of the Sea Conference this year, Ambassador McKernan was opposed to this legislation. The slow pace of the conference, the content of the single negotiating text, and the inability of the Department of State to support fisheries negotiations have all combined to change his mind. I would venture to say that there is no one in the United States more knowledgeable on fisheries matters than Don McKernan. I hope my colleagues will read his letter closely.

I ask unanimous consent that Ambassador McKernan's letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

SEATTLE, WASH., December 4, 1975.

HON. WARREN G. MAGNUSON,
U.S. Senate, Committee on Commerce,
Washington, D.C.

MY DEAR SENATOR: In answer to your letter of November 18, following are some brief comments on the so-called fact sheets presented by Senator Gravel. May I preface my remarks by saying that Mr. David Wallace of NOAA and Ambassador Thomas Clingan, former Deputy Assistant Secretary of the Department of State, did negotiate superbly for our country during this past year, both in the last ICNAF Annual Meeting (Wallace) and during bilateral negotiations with Japan (Clingan). There were advances made in this country's position which may in the future improve conservation of the fishery resources off our coast and may improve the opportunity for our fishermen. This would be an acceptable temporary solution if nations were moving deliberately towards an L.O.S. Convention, particularly a Convention that would be widely acceptable and one that would ensure in the long run the conservation and full use of the living resources of the world ocean. Unfortunately, I do not perceive these conditions being fulfilled within the foreseeable future and especially by the "Informal Single Negotiating Text" now being considered by the L.O.S. Conference.

I have concluded that it is unlikely that an acceptable L.O.S. Convention can or will be negotiated in 1976 and probably not in 1977. Secondly, the present text under consideration by the Conference, the single negotiating text that was submitted to the last meeting of the L.O.S. Conference, is unsatisfactory and will not ensure appropriate conservation of either fisheries or marine mammals. In fact, if the current "Single Text" is accepted, the U.S. will have practically accepted a 200-mile territorial sea insofar as fisheries are concerned, and the "full utilization" concept so prominent in the U.S. position, as well as protection for our tuna fishery and for marine mammals within the 200-mile zone, will be virtually gone.

Provisions for the conduct of ocean research are contradictory in the texts from Committee II and III, and there is no reason whatsoever to assume from the past sessions of the Conference that these texts relating to scientific research will improve from our point of view. In fact, it would appear just the opposite despite optimistic views from some administration spokesmen. One must keep in mind, the more the Economic Resource Zone provisions resemble sovereignty over the

zone for the coastal state, the less the likelihood that the U.S.S.R. or Japan—nations catching by far most of the fish caught off the U.S. coast, approximately 3.0 million tons—will accept such a Convention. Then, where will we be?

The most acceptable course of action at this time in our history is for our nation to assert jurisdiction over a 200-mile economic resource zone and to provide in the same piece of legislation for appropriate federal authority over the management of those resources as generally provided in the Magnuson Bill, S. 961. The Bill could be improved by indicating strong U.S. policy on unimpeded transit through the zone and the encouragement of other matters to conduct scientific research within the zone, subject to adequate notification of the U.S.

Now, turning to the "Fact Sheets" of Senator Gravel: Fact Sheet No. 1 deals with the status of U.S. fisheries. I find the arguments for both the Atlantic and Pacific far too optimistic:

1. There is no assurance that "many" of our fisheries will be rehabilitated in six to seven years as a result of recent bilateral or multilateral actions by our government. We do not have adequate control over foreign fishing, neither adequate surveillance nor enforcement, to be at all certain we will ever be able to rehabilitate those fisheries depleted by foreign fishermen unless we achieve greater control over the activities of those fishermen.

S. 961 does not "exclude other nations from traditional fishing grounds." It, of course, makes provisions for foreign fishermen to fish "traditional fishing grounds," but with adequate provisions to monitor and to see—contrary to present practice—that the foreign fishermen are abiding by conservation.

Atlantic fisheries section.

This section was obviously written by someone who knew very little about the Northwest Atlantic Fisheries Convention (ICNAF). The International Convention was not just recently concluded as mentioned in the first sentence of that section. The annual meeting of the Convention, which has been in effect for twenty-five years, provided for a reduction of 200,000 metric tons in subarea 5 and 6, and area off the United States' coast. The provisions of ICNAF do provide for a further reduction in catch, but the provisions for adequate enforcement and surveillance are not adequate at the present time, nor do I believe they can ever be adequate until the United States assumes jurisdiction over the resources. Again, it is not clear that within a six or seven year period these stocks can be brought back to a level which will produce the maximum sustainable yield. I think the opposite is just as likely.

2. There are three things to be said about the discussion on the northwest Atlantic fisheries: (1) Without adequate surveillance and adequate enforcement which are not present in the northwest Atlantic, there can be no assurance that foreign fishermen will abide by regulations which they themselves enforce, (2) while the U.S. quota has increased in relation to other fisheries, the biomass of fish in the northwest Atlantic has steadily decreased, (3) our government is perfectly aware of the fact that major nations fishing off our coasts have been misrepresenting the levels of their fish catch; that is to under-report their catches. Obviously, this is not something condoned by their government, but the individual fishing captains and perhaps fleet commanders have been found to permit false reporting. In these circumstances, obviously, the only way that we can be sure that foreign fishermen are abiding by conservation rules is to have adequate control over fishing. Anything less is short-term and imperfect and does not insure either the conservation of the resources nor an adequate opportunity for the United States fishermen to benefit from those resources. For example, W. Gordon, Acting Director, National Marine Fisheries Services, Northwest Region, was quoted in September of this year as saying, "Our most conservative estimates would indicate that they (the U.S.S.R.) have exceeded the quota for mackerel by 10%." Other sources in New England estimate that the Soviets overfished their quota by 54,000 tons.

3. I would like to state unequivocally that I believe that the very large stocks of fish being fished by foreign fishermen off the Pacific Coast of the United States and off Alaska continue to be over fished by these nations. More specifically, the Pacific Ocean perch have been depleted and are still depleted throughout the northeastern Pacific Ocean. The Alaskan pollack, the major stock being fished by foreign fishermen in the Bering Sea, is overfished and foreign fishing remains at a level at least 200,000 tons over what it should be.

4. The recent meeting of the International North Pacific Fisheries Commission in Vancouver, British Columbia, referred to on page 6 of Senator Gravel's document, failed to provide any additional protection for stocks of fish found off the U.S. coast being fished by foreign fishermen, as could easily be predicted. Thus,

in the Pacific, there is even less reason for optimism than in the Atlantic. Beyond the problem of continued overfishing by foreign fleets which have been fishing the area for a decade or more, there are increased numbers of fleets from other nations now fishing in the north Pacific and Bering Sea. One can only assume that until the United States gains some control over the 200-mile zone off our coast, there cannot be effective conservation of the great fishery resources of the northeastern Pacific Ocean and Bering Sea; it's just as simple as that.

5. The interesting thing about Facts Sheet No. 2 from Senator Gravel is that this speaks about the traditional U.S. fisheries for shrimp, clams, crabs, etc., at some length. Since a great deal of United States historical fisheries do take even menhaden on the Atlantic) move during the year from within 12 miles to control. On the other hand, in the northwest Atlantic and the Pacific as well, major parts of these important stocks (herring, scup, sea bass, river herring, and even menhaden on the Atlantic) move during the year from within 12 miles to beyond 12 miles and are thus vulnerable during some part of their life history. Incidental catches by foreign fishermen have effected the flounders and rock fishes off Washington, Oregon and California coasts and, of course, it is well known that foreign fishermen taking Pacific ocean perch directly and indirectly, have seriously contributed to the decline in stocks of ocean perch and have directly caused the decline of the Pacific halibut.

6. The major point, however, is that if the United States fisheries are to prosper, it will be necessary for our fishermen to begin to fish such stocks as Alaskan pollack and many of the flat fishes found on our Continental Shelf beyond 12 miles not now fished by our fishermen. *Without control by the United States over the intermediate zone between 12 and 200 miles, it is unlikely that our fishermen will be able to take advantage of the opportunity to expand U.S. fisheries.* Once again a major factor is the lack of control of the activities of foreign fishermen, inadequate statistics, and generally an ability of the United States to know who is fishing where, what is being caught, and what effect such catches are having on the stocks of fish.

7. With respect to our salmon resources, this will require special negotiations for those countries capable of offshore salmon fishing. I believe such regional negotiations can be carried out to protect the salmon fisheries but need to be done whether or not there is a 200-mile Economic Resource Zone or how such a zone comes about.

8. There is reference to U.S. renegotiations of the eleven fishery treaties within the next year. I think it is quite clear that even with the competent staff available in the Department of State, there is no chance that we can significantly, equal by means of bilateral negotiations, this next year what could be done if we were to assert, in a conservative manner of course, a 200-mile zone of fishery jurisdiction off the United States coast. I think it is silly to claim otherwise. A very simple question can be asked, and that is what is our negotiating "coin." That is to say, how are we going to get these nations to agree, to what is implied to be a 200-mile zone of jurisdiction, without U.S. law—and the leverage that implies—or international treaty. On the other hand, if the United States does assert jurisdiction then, of course, we would have a strong negotiating lever which we could use in discussions with foreign nations.

9. It is true that a unilateral assertion of jurisdiction causes problems for the United States tuna fishery which fishes for the most part within the 200-mile zone of Central and South American countries. On the other hand, if the United States asserts jurisdiction in such a way as to provide for the international treaty route for highly migratory species such as tuna and indicates, contrary to past practice, the strong support of our government, including both Congress and the Executive, it seems to me that it will give us a better opportunity to negotiate with Latin American countries than by accepting the present, impossible conditions in the single negotiating text now being discussed in the Law of the Sea Conference. I see no indication that the United States can improve the wording of this text and therefore I conclude that for the United States to continue to negotiate on the basis of the Single Text is to give up completely our position on highly migratory species of fish such as tuna.

10. With respect to the argument on shrimp, once again United States unilateral assertion of jurisdiction as provided for in S. 961 provides for a full utilization concept. If we could accept this concept, ourselves, and then negotiate with other countries off whose coasts our fishermen fish, we could expect at least better protection for our shrimp fishermen than the present impossible provisions of the Single Text, again which I don't expect to get better as negotiations proceed. Thus, our shrimp fishermen have no protection in the

present Single Text, and a move by our government asserting our policy seems to me to be the best alternative available for our shrimp fishermen. Thus, I tend to discount very much indeed the arguments presented in Fact Sheet II. The current text before the Law of the Sea Conference provides no protection for the U.S. shrimp and tuna fishermen.

11. The realities of the north Pacific salmon fisheries are that Japan and other countries, unquestionably at the present time would be willing to negotiate the salmon issue with the United States for access to resources within 200 miles. Salmon of U.S. origin would be vulnerable in significant quantities in the Gulf of Alaska waters beyond 200 miles. On the other hand, the 200-mile limit, if enforced would prevent Japanese fishing for salmon in their traditional areas along the Aleutian Islands west of the Provisional Abstention Line. On balance, it seems quite likely negotiations could be successfully completed with Japan with or without the Convention and with or without a 200-mile unilateral extension of jurisdiction by the United States.

With respect to such countries as Korea and Taiwan, obviously bilateral negotiations under any circumstances will be necessary to keep these fishermen from fishing salmon of U.S. origin. If one could assume that a multilateral Law of the Sea Convention, favorable to the United States' position, could be negotiated soon, then of course, the salmon resources would have the best protection. In the absence of such assurances, in fact with the almost certainty of no agreement of a Law of the Sea Convention for at least two more years coupled with an uncertain future ahead of that because of the need for ratification of such a Convention and the uncertainty of the actions of Japan and other countries capable of fishing Pacific salmon on the high seas, one can only logically conclude that the United States policy on this subject ought to be set now and negotiations for resources requiring special attention such as shrimp, tuna and salmon ought to begin immediately after such assertion of extended jurisdiction by the United States government.

There are a good many facts misrepresented in the Fact Sheet dealing with salmon. It is very likely that the *cost* of Japanese vessels coming clear over to the Gulf of Alaska and fishing salmon will increase substantially over their fishing the central north Pacific so that the net value of salmon versus pollack may be much closer than represented in Gravel's argument. Furthermore, of course, pollack is in much greater demand than salmon for protein food within Japan. I grant that the salmon problem is a touchy, delicate one. I maintain, however, that it is time for the United States to assert its policy in the form of national law. Following this, it seems to me that our nation will have a better opportunity to protect salmon within the next decade by such a prompt assertion of jurisdiction, followed by negotiations with nations who fish or potentially could fish for salmon, than by depending upon the vagaries of a Conference which seems to be going nowhere and a Convention Text which is undesirable in any case.

Returning now, Senator, to your letter, I wish to answer your inquiry as to my opinion of the likelihood of success of the Law of the Sea Conference during 1976. As is obvious from my previous remarks, there is very little possibility that a Law of the Sea Conference will be concluded during 1976 and even less possibility that a Convention will be negotiated which adequately takes into account important U.S. interests.

Next, you have asked me for my opinion of the President's new initiative in fisheries which was recently announced by the Secretary of State, and you have asked me my opinion of whether this initiative might succeed or fail. I see no reason to believe that the United States can negotiate any provisions in new agreements which will approximate those provided for in S. 961, the Bill being considered by Congress at the present time. There are several reasons why I do not believe this initiative will be successful. I think it was cooked up in the first place without adequate consideration and adequate thought. It emerged at a time when the positions for Assistant Secretary and the Deputy Assistant Secretary of the Bureau of Oceans, Environment and Atmosphere were vacant. Furthermore, this whole Bureau within the Department of State is inadequately staffed in numbers to handle such a fantastically large job as anticipated and there is no negotiating leverages which will insure its success. It was obviously designed to defeat the legislation, not to improve the conservation of fisheries resources lying off our coast.

Therefore, I am opposed to the Administration's position, and I now believe our nation should pull together and set a conservative ocean policy; a policy that takes into account changing world conditions; a policy that shows leadership

instead of following the leaders; a policy that provides some time in which foreign nations can react (implementation in January, 1977). That policy should be set in the form of national law and should provide for flexibility and for modification as our dialogue with nations of the world continues within the L.O.S. forum and within the context of bilateral and regional negotiations.

Sincerely,

DONALD L. MCKERNAN,
Director, Institute for Marine Studies.

Mr. MAGNUSON. In the first place, the bill does not prevent making fishing agreements within the 200-mile limit. [Secs. 201; 202] The difference is that when we make them, we will have control and we will not allow people to fish unless they practice conservation. It is as simple as that. [Secs. 201; 202]

The bill does not affect, contrary to what a lot of loose statements which have been made, present treaties at all. We specifically say that the present treaties will remain in existence. [Sec. 202(b)]

Second, the bill merely establishes some reasonable management for our fish stock. [Sec. 202] We cannot do it unless we go out about 200 miles. [Sec. 201] We cannot do it if we are going to have all of the foreign flagships fishing uncontrolled within the 200 miles. [Secs. 101; 102] They even come within the 12-mile limit.

A person can go off the coast of my State of Washington on a clear day, or get on a bluff on the far northwest corner, and look upon 200 or 300 fishing boats belonging to the Russians or Japanese. The Polish ships are in there now. China has started. South Koreans fish off our shores with boats we gave them after the war and which have been converted into fishing fleets. There are just no fish remaining.

There is more unemployment in the fishing industry than in any other industry in the United States.

Off the coast of Maine they are fishing with long nets. The other day there was a net from a Russian trawler and when they hauled it up, it had seals in it. That is how they practice conservation.

We are running out of our fish supply. That supply cannot return overnight.

Some say now that in 6 or 7 years some of our fish stocks will come back. They use that figure, because they have reduced foreign fishing in the North Atlantic on their catch. They agreed to a little bit of a quota.

Well, that is a pretty good proposition, Mr. President. That is like telling a burglar he should stop burglarizing part of your house all the time.

The burglar says, "I will tell you what I will do. I will cut down about 50 percent. I will only burglarize half your house, or the second story and then the bottom story."

They are stealing our fish and we have spent hundreds of millions of dollars to develop our fish stocks, and are practicing conservation. We do not fish off the shores of any other country, not at all.

Mr. President, if we took an American fleet and started to fish off the islands of Japan, the Diet would meet within 24 hours and throw us out. If we started early enough in the morning they would meet in the afternoon and throw us out.

We do not fish off the shores of another country.

If we started to fish in the Pacific off the coast of Siberia, they would restrict us, too.

To a fisherman this 200 miles of ocean is like land is to a farmer. This is his land. This is all the fishermen have. And they cannot eat negotiations. That gets a little bit dry after about 11 or 12 years.

I could give the same testimony by heart that I heard 11 years ago from the military.

I see my friend from California who has talked about tuna. This bill has nothing to do with tuna. [Sec. 103] We do not fish much tuna within 200 miles. They do within 200 miles of Mexico and they now have a 200-mile limit. There is a loose agreement covering tuna out in the Pacific.

And there is no conservation. There is not a bit of tuna left in the Atlantic commercially, because we did not have conservation.

If we do have to have some kind of agreement, we can do it within this bill. In fact, we encourage it.

Mr. President, as I said earlier, I do have many things to say, but we will have a time later to talk about this.

Most of our fishing people are looking forward to this. They are looking forward to participating in the revival of our fish stocks. They want to do that and they will give us good advice. They will watch it. And, Mr. President, this goes for shellfish, too.

I am hopeful that when we get to this bill, we will promptly get to it and have a rollcall. As I said before, if 68 Senators were for it in the last session, there ought to be 78 for it now since the conditions have worsened since we voted it last year. All indications prove that.

At this time, Mr. President, I will yield the floor. I first want to say the Senator from Alaska (Mr. Stevens) has done yeoman work on this bill. We have had hearing after hearing after hearing to give everybody a chance. I have let the bill go through two or three committees every time. The House did the same thing. Everybody comes to the conclusion that we have to have some kind of coastal protection for our fish stocks. It is not denied. But, Mr. President, we cannot wait any longer.

Caracas was a failure. The first Geneva Conference was a failure. The last conference was a failure, and all the rest in between.

Maybe our people tried, but they could not get anything done.

There is another thing, Mr. President. Even if they do, by some miracle, come out with something in March in New York, and then go on until May—at one time they passed a resolution to go on to Chile and talk about it after that—the representatives would have to go back to their countries to have an approval. That may take months and months and years.

It is going to take us some time to get this bill moving and time is running out.

Mr. President, I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER (Mr. MORGAN). The Senator from Alaska.

Mr. STEVENS. Mr. President, I join with the Senator from Maine in commending our distinguished colleague and neighbor (Mr. Magnuson) and point out that this is now known as the Magnuson Fisheries Management and Conservation Act, or it will be when it becomes law, at least.

He has demonstrated his leadership as chairman of our Commerce Committee, and has been most persistent in seeing to it that the bill

is in the situation that it is today. Before we are finished here on the floor of the Senate it should be acceptable to almost every conservation, environmental, and fishing organization in the country. I would echo what the Senator from Washington has said in terms of the amount of review that the bill has had to date.

So, Mr. President, I am pleased and honored to speak in support of S. 961, the Magnuson Fisheries Management and Conservation Act. This legislation is critically needed to enable the United States to adequately and effectively conserve and manage U.S. fisheries resources and would provide the framework upon which the U.S. fishing industry can be revitalized. [Sec. 2]

S. 961, a bill that I have cosponsored, would extend, on an interim basis. [Sec. 401] U.S. jurisdiction and management authority over fisheries resources to a distance of 200 nautical miles from the base line of U.S. territorial sea. [Secs. 101; 102] In the case of anadromous species spawned in U.S. waters, such jurisdiction would extend throughout the migratory range of each applicable species. [Sec. 102 (2)] This legislation is vitally needed to enable the United States to adequately protect and conserve fishery resources adjacent to our coast and to control foreign fishing activities directed toward U.S. fishery resources. [Sec. 2] Existing fisheries agreements have clearly not achieved this objective [Sec. 2]

While world fish landings have tripled since 1938, from approximately 50 billion pounds to over 150 billion pounds, U.S. landings in the same period rose only slightly, from 4.3 billion pounds in 1938 to 4.7 billion pounds in 1973. The volume of fish harvested off the U.S. coast has increased dramatically from approximately 4.4 billion pounds in 1948 to 11.8 billion pounds in 1973. Landings by U.S. vessels remained virtually constant throughout that 25-year time span while the foreign catch in U.S. coastal waters increased to an annual level of 7.9 billion pounds, a figure that represents nearly 70 percent of the commercial U.S. coastal fish harvest.

In the same 25-year period consumption of fish products in the United States has more than doubled, from 3.1 billion pounds in 1948 to 7 billion pounds in 1973. Under existing growth patterns, this figure could increase by an additional 3 billion pounds by 1985. Nearly the entire growth in U.S. fish consumption has been supplied by imports that are often harvested in U.S. coastal waters by foreign fishing fleets, processed in the home port of the foreign fishing vessel or on the fishing vessel itself, and exported for sale to the United States.

Today, the United States imports over 60 percent of its fish product needs. In 1974, the U.S. balance-of-trade deficit in fishery products alone amounted to nearly \$1.5 billion. It has been estimated that if imports of foreign fisheries products were replaced by domestic production, the additional economic impact on the U.S. economy would approach \$3 billion and result in an increase of 200,000 man-years in employment.

As a result of virtually unrestrained harvesting of U.S. coastal fishery resources, particularly by large-scale foreign fishing fleet operations, the National Marine Fisheries Service has indicated that at least 14 fish species of interest to U.S. fishermen have been overfished and their continued economic viability has been threatened. An additional 16 species have been classified as fully utilized.

As impressive as these statistics may be in indicating the need for the United States to take positive action regarding the conservation of its coastal fishery resources, I am well aware of the need to consider additional factors when considering the advisability of this legislation. One such concern frequently mentioned by individuals opposing the passage of S. 961 is the potential effect such legislation would have on ongoing U.S. Law of the Sea Conference. I have closely followed the progress of this conference, from its genesis in 1967 through the progress made at the Geneva meeting this Spring and the ongoing preparations for the upcoming New York session. I unequivocally support this effort to achieve international agreement on a new Law of the Sea regime. The events of these last 8 years, however, lead me to conclude that the prospects for a rapid settlement of the many ocean issues before the conference are remote at best. This conclusion is not surprising when one considers that there has yet to be any final agreement on any of the over 100 issues presently before the conference. Adding to the difficulty of reaching agreement is that fact that nearly 15 nation states are participating in the conference, each seeking to achieve a regime that best serves its own national interest. Such interests may not necessarily coincide with those of the United States, as evidenced by the disputes involving deep seabed mining, marine scientific research, passage through straits, and marine pollution. It may be many years before a regime acceptable to the United States is agreed upon at the conference. In addition, the cumbersome rules of procedure adopted by the conference and the announced objective of seeking agreement on one comprehensive treaty rather than a series of separate agreements dealing with specific topics mitigate against any rapid settlement emerging from the conference. Immediate and decisive action, however, is needed to protect and conserve U.S. fisheries resources. Solutions to the many and critical problems facing the U.S. fishing industry cannot depend upon unduly optimistic projections for a rapid and acceptable agreement at the U.N. Law of the Sea Conference.

Statements to the effect that passage of S. 961 would jeopardize what chances currently exist for any settlement at the Law of the Sea Conference are simply unsupportable. As I have indicated earlier, the prospects for any agreement emerging from the conference in the near future are not very optimistic. This evaluation is unaffected by any decision the United States makes regarding its fishery jurisdiction. Areas of disagreement at the conference are focused on other issues and not upon the question of coastal state control over fishery resources. In fact, the positions contained in S. 961 closely parallel those contained in the single negotiating text that emerged from the 1975 Geneva session. [Sec. 2] S. 961, therefore, is reflective of the positions of the vast majority of nations attending the conference concerning the question of coastal state jurisdiction over fishery resources and clearly in line with international expectations regarding coastal state control over adjacent fisheries resources. [Sec. 2]

Additionally, it must be noted that title I of S. 961 is interim in nature and terminates upon the implementation of an acceptable Law of the Sea treaty. [Sec. 401] S. 961 is thus clearly not intended to preempt any international agreement concerning fishery resources but is designed to conserve and protect U.S. fishery resources pending an

international settlement on the question. [Sec. 401] It should be further noted that S. 961 protects both United States and international interests in the living resources of the sea. [Sec. 2] U.S. coastal waters contain upward of 20 percent of the world's living resources and positive U.S. action to protect and conserve these resources, as exemplified by S. 961, pending an international agreement on the question of coastal state control over fishery resources, not only protects the resource for the United States, but also for the world community at large. [Secs. 2; 401]

I must respectfully disagree with my colleagues who allege that the Magnuson Fisheries Management and Conservation Act violates international law. Such arguments are based upon the erroneous belief that the 1958 Geneva Convention established a regime that limited the seaward extent of the territorial sea or coastal state control over fisheries resources. In point of fact, not one of the four 1958 Geneva Conventions relates to either of these issues. Not a single article in any of those conventions, or any other international convention, can be said to address these issues. That these deficiencies were recognized by the international community is indicated by the fact that a subsequent Law of the Sea Conference was convened in 1960 to attempt to resolve these two deficiencies in the 1958 conventions. As was the case with all previous international conferences, agreement on these two critical areas of the international law of the sea eluded negotiators Judge DeCastre, in his concurring opinion in the 1974 decision of the International Court of Justice in the Iceland Fisheries Jurisdiction case, succinctly stated the issue:

There are no well-founded arguments in . . . binding character of the 12-mile rule; those built upon *ad hoc* interpretation of articles in the 1958 conventions do not convince. The 1958 Conference failed in its attempt to fix a limit to fisheries jurisdiction. How can one deduce from the conventions what the parties to the Conference refused to say.

Since international treaty law on the question of the acceptable limits of coastal nation jurisdiction over adjacent fisheries resources is lacking, one must look to customary international law.

As my colleagues are well aware, the customary international law of the sea has a rich and long tradition and has been the product of mutual accommodation, reasonableness, cooperation, and a process of claims and counterclaims. The laissez-faire treatment of the ocean's living resources, prevalent from the time of Grotius in the early 1600's and through the end of the 1950's, has rapidly been replaced by recognition within the world community of the need and duty of coastal nations to take positive action to conserve fishery resources. International law regarding the question of the permissible limits of coastal nations' jurisdiction over the living resources of the sea is in a state of flux. Nearly 40 coastal nations have already extended their exclusive fishery jurisdiction beyond 12 nautical miles from their coasts. Both Iceland and Mexico have, within the past month, extended their fisheries jurisdiction seaward to 200 nautical miles. As the five members of the majority stated in the ICJ Iceland Fisheries case:

In our view, to reach the conclusion that there is at present a general rule of customary law establishing for coastal states an obligatory maximum fishing limit of 12 miles would not have been well founded. There is not today an inter-

national usage to that effect sufficiently widespread and uniform as to constitute, within the meaning of Article 38, paragraph 1(b), of the Court's Statute, evidence of a general practice accepted as law."

* * * It could therefore be concluded that there is at present a situation of uncertainty as to the existence of a customary rule prescribing a maximum limit of a state's fisheries jurisdiction. No firm rule could be deduced from state practice as being sufficiently general and uniform to be accepted as a rule of customary law fixing the maximum extent of the coastal states jurisdiction with regard to fisheries.

Given this uncertainty, positions taken at the Third U.N. Law of the Sea Conference concerning this very issue take on added significance. While the proposals and statements made at the Conference concerning this issue do not, in and of themselves, constitute customary international law, they are strongly indicative of a new consensus on the question of fisheries jurisdiction. This is particularly true when combined with the fact that customary international law concerning the permissible seaward limits of coastal nation jurisdiction over fisheries resources is currently in the process of being remodeled. S. 961 is virtually a carbon copy of the provisions concerning coastal nation jurisdiction over fishery resources contained in the single negotiating text that emerged from the 1975 Geneva Sessions of the U.N. Law of the Sea Conference. S. 961 can thus be said to comply with the expectations of the world community concerning the acceptability of coastal nation control over fisheries resources.

In the absence of a clear rule, what standards are to be used in judging the legality of a coastal nation's claim to an extended zone of fisheries jurisdiction? Such claims, in the words of H. A. Smith, must be reasonable:

"If the general law, apart from exceptions created by special treaties, fails to give reasonable protection, then the law is defective and should be amended by common consent. The law of nations, which is neither enacted nor interpreted by any visible authority universally recognized, professes to be the application of *reason* to international conduct. From this it follows that any claim which is admittedly *reasonable* may fairly be presumed to be in accordance with law and the burden of proving that it is contrary to law should lie on the State which opposed the claim." (Emphasis added) Smith, *The Law and Custom of the Sea* 29 (1959).

McDougal and Burke in *The Public Order of the Oceans* indicate that such claims, to be reasonable, must be measured against the interest sought to be protected, the significance of that interest to the coastal nation, and the scope of the authority asserted by the coastal nation to protect that interest.

The reasonableness of S. 961, when analyzed according to the above guidelines, is clear. First, S. 961 is directed toward the conservation and protection of major resources of the United States—our fisheries. These resources have, as I have previously indicated, been grievously overexploited by massive foreign fishing activities.

Secondly, the extension of U.S. jurisdiction as proposed by S. 961 is strictly limited to fishery resources. Such activities as navigation, vessel passage through straits, general navigation and overflight, scientific research, deep seabed mining, or other ocean-related issues are not addressed by this legislation. Thus, S. 961 contemplates no action unrelated to fishery conservation and, therefore, is reasonable in scope.

Third, the legislation protects both U.S. and world community interests in fishery resources found off the coast of the United States. Overfishing of these resources, particularly by foreign fishing fleets, has resulted in severe depletion of many economically important fish species—that is fact. U.S. action to protect and conserve these resources, as exemplified by S. 961, pending international settlement on the question of coastal state control over fishery resources, not only protects the resources for the United States but for the world community at large. In addition, S. 961 specifically provides that existing U.S. international commitments concerning these resources will continue to be honored pending the conclusion of negotiations directed toward the objective of making all U.S. fisheries agreements consistent with the requirements of the bill. Further, S. 961 recognizes that traditional foreign fishing activity will be considered as a factor in future decisions concerning the acceptable level of harvest of U.S. resources by foreign nations.

S. 961 is thus (1) reflective of international expectations concerning the need of coastal nations to take positive action to conserve the living resources of the

world's oceans; (2) nearly identical to fishery jurisdiction provisions in the single negotiating text that is the basis for future law of the sea negotiations; and (3) fully in compliance with the standard of reasonableness that is used to evaluate the legality of unilateral claims under customary international law.

The Magnuson Fisheries Management and Conservation Act provides an effective means to conserve and manage U.S. fisheries resources and is reflective of the rich and long tradition associated with the development of the customary international law of the sea. [Sec. 2(c)(2)]

Additional opposition against S. 961 has been voiced by those individuals advocating increased reliance on existing bilateral agreements as a means to solve U.S. fisheries problems. As with the on-going efforts by the United States to reach an international settlement of fisheries problems at the third U.N. Law of the Sea Conference, I fully support efforts to negotiate more effective bilateral fishery agreements. I am also aware, however, as is the case with the Law of the Sea Conference, of the enormous difficulty faced by U.S. negotiators in reaching acceptable and effective international agreement on fisheries issues. Past efforts to reach such agreements, either on a multilateral or bilateral basis, have clearly been ineffective. While I am aware of and fully support the State Department's increased efforts to achieve more equitable bilateral fisheries agreements, I remain unconvinced that this process, alone, will prove sufficient to the task at hand. Basic institutional and substantive difficulties associated with existing bilateral agreements mitigate against any long-term reliance on the effectiveness of this course of action to solve the problems facing the U.S. fishery resources. We simply cannot continue to delay in our response to the problems associated with U.S. fisheries.

I must point out that passage of S. 961 would not obliterate the need for the United States to reach either multilateral or bilateral agreements with foreign states concerning fishery resources. [Secs. 201; 202] As you are undoubtedly aware, S. 961 provides that foreign states may continue to fish in the U.S. 200-mile zone, but only for those species that cannot be optimally utilized by U.S. fishermen. [Secs. 2(c)(4); 201(d); 303(a)(4)(B)] In addition, the United States would be able to charge reasonable fees to foreign states for the right to fish for such U.S. species [Sec. 204(b)(10)] and would be able to clearly establish a strong conservation program to insure that fishery activities do not harm the resource. [Secs. 201(c)(1); 201(c)(2); 201(e)(3); 202(a)(4)(B); 202(a)(5); 303(a)(1)] Thus, S. 961 would greatly facilitate the process of reaching effective bilateral agreements with foreign states concerning U.S. fishery resources. [Secs. 201; 202]

In closing, I wish to indicate that S. 961, in my opinion, provides the United States with an effective means to conserve and protect U.S. fishery resources. [Sec. 2] Passage of such legislation would not detrimentally affect U.S. interest, either at the U.N. Law of the Sea Conference or in the international community at large. [Secs. 2(c)(2); 2(c)(5); 401] In addition, S. 961 does not violate any existing provisions of international law and is clearly reflective of the positions put forth at the Law of the Sea Conference and developing customary international law. [Secs. 2(c)(2); 2(c)(5); 401]

Some of my friends who know that I have supported the Law of the Sea Conference, as has the Senator from Washington, from its very inception, question why we are proceeding so vigorously to make this bill become law at this time.

Mr. President, it is out of total sense of frustration that we do so, because last year, as the Senator from Washington will recall, we begged the negotiators for the United States at the Law of the Sea Conference to go to that conference and urge that the living resources issues be separated out—that the United States seek a single agreement on the living resources of the sea, and put off for later debate and later consensus all of the other issues.

We did that because we perceived the ever-growing pressures on the resources of coastal nations that have very vital fish stocks that have not previously been overexploited.

We saw the statistics building up right off our own State of Alaska. There, despite the fact that bilateral agreements have been in effect and are supposed to protect our fisheries, we find that 14 species off U.S. shores, a majority of which are found off the shores of Alaska, are in a state of depletion. They have been found to be, in effect, endangered species.

With regard to the Alaska pollock alone, the bilateral negotiations with Japan and Russia led us to a conclusion last year where our Nation agreed they could harvest 1.3 million tons of Alaska pollock in a single season, and yet the sustained yield of that species is one million metric tons at the most.

So the result of the negotiations was that this country agreed to let just two foreign nations fishing off our shores take 30 percent more than that species could absorb and survive. The consequence we have is now that the Alaska pollock has joined the list of depleted species, and we must take some action to protect fisheries for the future.

I think that it is imperative that we know that at the Law of the Sea Conference there are a series of issues that cannot be resolved in a short period of time in and of themselves. They require international education before the rest of the world will understand our position and the position of the developed nations. The issues involve the regime for the deep seabed, the questions revolving around all of the issues pertaining to freedom of the seas on the high seas, the total issues pertaining to scientific research, and the very complex issues involved in marine pollution. The whole question of dispute settlement in and of itself is a sufficient issue that it should require some time to resolve.

Yet we see that the issues we are trying to address in this interim legislation, those pertaining to living resources exhaustion, are in fact putting pressure on the Law of the Sea Conference to come to a conclusion and to reach an agreement. [Secs. 2(c)(5); 401] The whole world now, I think, realizes that this tremendous pressure exists upon the living resources of the sea.

So what we are saying in this bill is, "Allow us to establish an interim conservation zone for the protection of the fisheries and management concept, and this interim bill will be in effect only until the Law of the Sea Conference achieves its objectives." [Sec. 401]

I still personally would favor a separate treatment to protect the living resources of the sea, but if that is not possible, at least the Law of the Sea Treaty must be a cohesive one that recognizes all of the interests of the United States and the living resources issues ought to be the predominant issue that require our consideration in the first instance.

The bill that is before us now and the amendments that we have offered to meet some of the comments that have been made, which would improve the bill, I think, is absolutely essential to meet the best interests of future generations of Americans with regard to the protein base that exists in the oceans off our shores. [Sec. 2] I do not think that we can ignore the statistics, which show an ever increasing foreign catch off our shores, an ever increasing amount of imports of our own fishery products, an increasing deficit in our balance of payments on fisheries products, the declining employment not only in the fishing industry itself, but in related shore based industries, and the total disregard for the future of the species themselves. [Sec. 2]

At one hearing we were told, about 2 years ago now, that there were more fur seals in the Pribilof Islands that were floating ashore dead of malnutrition than used to be harvested. This is occurring because the foreign fishing fleets are depleting the food sources, the food chain of those ocean mammals. Mr. President, this is happening at the very time our country has declared a moratorium on the taking of ocean mammals, when we are trying to replace our stocks and achieve an increase in their numbers.

I think, as to anything that can be raised about this bill that looks at the future of the living resources themselves, we can only come to the conclusion that the time has passed, really, when we should have acted upon this legislation. To allow this situation to continue into the future would be to deny protection to those species upon which we will rely for many, many years in the future.

Mr. MAGNUSON. Mr. President, will the Senator yield just at that point?

Mr. STEVENS. I yield.

Mr. MAGNUSON. There is another matter; at the beginning we mentioned it, but we did not go into it in great depth. What has been happening here in the past 2 or 3 years is that even the sports fishermen are finding the same situation in sports fishing. A lot of good sports fishing is off the coast of the State of the distinguished occupant of the Chair (Mr. Morgan); and they are finding more meager supplies all the time, according to the records.

That is the same thing that is happening to the seals and out beyond, because sports fishing brings some of those things in, in our part of the country. It is a shame. The sports fishermen have been starting to complain pretty loudly about us not moving to protect our stocks within the 200-mile coastal zone part of the ocean.

Mr. STEVENS. I thank the Senator.

Mr. President, I ask unanimous consent to have printed in the Record a statement showing overfishing due to foreign catching of fish in the ocean areas off the shores of our country, where the catch limits negotiated by bilateral negotiations exceed the sustained yield of the species.

There being no objection, the table was ordered to be printed in the Record, as follows:

FOREIGN CATCHES—OVERFISHING SHOWN

I. A. Eastern Bering Sea and Aleutians: Pollock—Expected catches (metric tons) in 1975

Japan ¹	1, 100, 000
U.S.S.R. ¹	210, 000
Other nations	3, 000
Total	1, 313, 000

Estimated Sustainable Yield Under Current Environmental Conditions and Fishing Practices: 1,000,000 Metric Tons.

B. Pacific Ocean Perch, Flounders, and others (Pacific Cod, Sablefish, Etc.): Expected Catches (Metric Tons) in 1975;

Pacific Ocean Perch: 11,000¹ (148,000¹) 373,000.

Flounders and Others: 214,000.¹

Estimated Sustainable Yields: 350,000.

¹ Agreed Quota.

II. A. Gulf of Alaska: Rockfishes (primary Pacific Ocean perch) expected catches (metric tons) in 1975

Japan	¹ 54, 000
U.S.S.R.	¹ 10, 000
Others	3, 500
Total	67, 500

Estimated sustainable yield: 50,000 metric tons.

¹ Agreed Quota.

B. Sablefish: Expected catches (metric tons) in 1975

Japan	¹ 80, 000
United States	1, 000
Others (an increase over figure given in attached table)	10, 000
Total	41, 000

Estimated sustainable Yield, 30,000 Metric Tons.

III. Washington, Oregon, and California: A. Pacific Hake: Expected catches (metric tons) in 1975

U.S.S.R.	¹ 150, 000
Poland	¹ 44, 000
United States	6, 000
Others	1, 000
Total	201, 000

Estimated Sustainable Yield, 150,000.

B. Rockfishes: Estimated Catches (Metric Tons) in 1975

Japan	¹ 4, 000
U.S.S.R.	¹ 2, 500
Poland	1, 000
United States	10, 000
Total	17, 500

Estimated Sustainable Yield, 15,000.

¹ Agreed Quota.

Mr. STEVENS. Mr. President, what the Senator from Washington has mentioned is something that I feel very personally. I am a sports fisherman. When I fish for silver salmon in southeastern Alaska my limit is two per day or three total possession on the boat per fisherman on a trip. That limit cuts in half the limit of previous years. As to the Cook Inlet salmon fisherman, who literally spends hundreds of dollars to get where he can fish for this king salmon, his quota is one.

In the State of Washington in the Puget Sound it is even worse.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. STEVENS. Yes.

Mr. McCLURE. The Senator might be interested in knowing that in the State of Idaho, which happens to lie 400 miles inland, where we are a major spawning area for sea run steelhead salmon, we have completely and totally cut off sports fishing because the situation became so critical on the spawning beds on the headwaters of the Columbia and Snake areas.

Mr. STEVENS. It has gone even further than that.

In Washington State, I am informed that the catch of the sports fishermen was reduced down to one-third in a 2-year period.

The total number of fish taken by the fishermen in Bristol Bay has been domestically reduced. We had a total closure of fishing in Bristol Bay. One could not even take the fish for subsistence purposes, and the President declared the area a natural disaster area because the people who lived entirely off the sea could not fish. We had to provide Federal assistance in that area primarily, in my opinion—other people had other opinions about the weather—but primarily, in my opinion, due to the impact of the foreign fishing fleets.

Mr. President, we all know we are not going to continue and finish this bill now today. It does become, as I understand it, the pending business for the second session of this Congress. We had hoped to be able to get this bill into conference so that the staff of our two committees could help work out the differences between the two bills, the House-passed bill and this bill, so that we might get the bill into a position where it could be passed and become law before the Law of the Sea Conference.

I am prepared to offer an amendment to make the bill effective on the date it is signed [Sec. 104] but to delay the enforcement date until January 1, 1977. [Sec. 312] The House bill is a little bit different in delaying the effective date. [Sec. 104] My amendment would enable the Fisheries Management Councils to begin to organize these management councils. [Sec. 303] We need time to find the people who are qualified to be members of the councils. They must be nominated by the President after their names have been suggested by the Governors of individual States. [Sec. 303] They must then be confirmed by the Senate. [Sec. 303] They must be able to get appropriations from Congress. [Secs. 303; 406] They must then find their staff, locate their headquarters, conduct hearings, promulgate their regulations [Sec. 303], have an opportunity for everyone who is involved to be heard, to comply with the Administrative Procedures Act. [Sec. 305] In other words, Mr. President, it will take 9 months to a year before these councils could constitutionally have effective, enforceable, and fair regulations. [Sec. 305]

We are prepared to demonstrate to the Law of the Sea conferees that they have the time next year to reach an agreement, if they can. [Secs. 2(c)(5); 401] If they reach an agreement, this bill would be implementing legislation in the interim between the time the agreement was reached and it had been ratified by a sufficient number of nations in order to be promulgated as international law. [Sec. 401]

Mr. President, the last time that process was gone through by this country with regard to ocean resources was in the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas.

It took 8 years from the time that was negotiated until it was promulgated by the United States as law, and the interesting thing is that the nation that we are trying to enforce conservation principles on now, namely, Japan, participated in that conference and was part of the negotiation but refused to sign.

So I warn everyone concerned with the Law of the Sea Conference that it is entirely possible that the nations of the world meeting under the auspices of the United Nations could come to a consensus, but some of the very vital coastal nations could refuse to ratify, and we would be in exactly the same position 8 or 10 years from now as we are right now, faced with a question of do we have the intestinal fortitude as a nation to stand up and say we will enforce unilaterally conservation principles out to 200 miles.

Our neighbor in Mexico did it, and they are in the process now of bringing about their enforcement scheme. Our neighbors to the north, and to the south of my State, Canada, are prepared, I am informed, to also put into effect a 200-mile zone. They have the equivalent of 100 miles now. In other words, if our three nations would act together and declare a conservation zone [Sec. 101], this whole continent would have protection off its shores so far as the living resources of the sea are concerned.

Mr. President, there is no difference between our bill and the Law of the Sea consensus on the 200-mile issue. [Secs. 2(c)(5); 401]

I am informed, and those of us who have been to the conferences came away with the opinion that the world community is prepared to accept a 200-mile zone for the purpose of total economics; our proposed 200-mile conservation zone is only related to the protection of the living resources within 200 miles. [Secs. 2(c)(1); 2(c)(2); 101]

We should act on this bill. Those who are involved in the negotiations of the Law of the Sea should know that we are sincere in trying not to disturb the progress of their negotiations. [Sec. 2(c)(5)]

At the same time, I do not think that this Senate ought to be deterred by any comments that come from foreign nations that indicate any type of retaliation, for instance, from Japan. I have heard reports of what the Japanese have indicated they might do should we pass this bill. They are the one nation that has been given complete preference in terms of the Law of the Sea Treaty in its present form. I would have to oppose the ratification of that treaty in its present form because the economic dislocation clause that appears in it that would give Japan the right to determine whether or not it could continue to fish on the high seas for anadromous fish.

When one looks at the Law of the Sea's progress and looks at what we are trying to do, I think statements that come from foreign nations

that try to influence this Senate should be regarded with great suspicion, particularly if they are generated from a nation which failed to ratify the Convention on Fishing and Conservation of Living Resources of the High Seas that was designed for the protection of the very species that we once again are trying to protect.

Mr. MAGNUSON. The Japanese Government, about 60 days ago, had a full-page ad in the Washington Post, and I guess the New York Times, also, intimating that they would not sign any, that they had to live off the sea, and that argument we have heard. So they have already in an advertisement here in the United States given us warning what they were going to do. It was a three-quarter of a page advertisement. I have it some place in my files, and I shall have it printed in the Record when we return.

Mr. STEVENS. I thank the Senator from Washington.

The point is it is a nation such as that that is coming through their representatives to either our conferences on the Law of the Sea or our State Department, warning against the enactment of our bill on the basis of some claim that they might retaliate.

Mr. President, for my own, only as one individual Senator and an American, I think the Japanese ought to think twice before they threaten this country with regard to action in retaliation when we are trying to make them observe internationally recognized conservation principles. [Sec. 2(c)(2)] We still provide the defense umbrella for Japan, and we still provide the defense umbrella for the whole Pacific. We cannot, I think as a nation, continue to do that and watch the rape of the oceans that abound our shores.

It seems to me that it is time that the people in the State Department recognize what their true role is, and it ought to be to take action on those issues that, as the Senator from Washington states, are most affected by time.

Those are the issues pertaining to living resources. I am hopeful that when we return, we will be able to enact this bill and get it to conference and get it into shape, so that it can be delivered to the Law of the Sea Conference in a demonstration that this is interim legislation; [Sec. 401] that it will become effective on January 1, 1977 [Sec. 104], either to implement title I of this bill or to implement a law of the sea agreement with regard to living resources of the sea. [Sec. 401]

Again I commend my good friend. I remind him that he made the move to name the 12-mile bill after my predecessor, Senator Bartlett; and I have been most pleased to be able to respond as an Alaskan and as a good friend of Senator Magnuson—this is the Magnuson bill now.

Mr. MAGNUSON. Mr. President, does the Senator from Alaska want to speak on this matter?

Mr. GRAVEL. I will be happy to.

Mr. MAGNUSON. I will suggest the absence of a quorum first, because I am not quite sure how long the leadership wants us to go on tonight.

Mr. GRAVEL. That should not stop me from making a statement.

Mr. MAGNUSON. No. I am just suggesting the absence of a quorum, to find out. They will not shut you off.

Mr. GRAVEL. Why can I not make the statement until the Senator ascertains that from the leadership?

Mr. MAGNUSON. All right.

Mr. GRAVEL. Mr. President, essentially what we are doing here is preparing ourselves for a debate that may take place at the beginning

of next year. It is a very fine exercise, because I think we can lay out some of the parameters that will be involved.

Prior to that, Mr. President, I should like to place some material in the Record and seek some printing, as was done earlier by the proponents of the bill.

I send to the desk, and I ask unanimous consent for its printing, a compilation of a position paper that I have written, fact sheets, and a response to the evaluation of those fact sheets by Senators Magnuson and Stevens. I ask that it be printed as a Senate memorandum, as was printed the rebuttal to those fact sheets that I originally presented. I hope we can print the same number of copies that were printed of the memorandum to the Senate on November 21, 1975.

Mr. STEVENS. Mr. President, reserving the right to object—and I shall not object to equal treatment for my colleague—I am informed that that is not a proper request, to have a document printed by the Senate itself, that those documents were printed by the committee. I am certain that the committees will accord Senator Gravel the same privilege afforded us in terms of the document.

The document we presented was in answer to a previous document that was presented by Senator Gravel. Until the leadership on this side has a chance to review that, I am told that we do not approve of printing documents as memorandums from the Senate itself, but they should be originated from a committee.

Will my colleague permit me to check that out?

Mr. GRAVEL. I have no problem. I leave the unanimous-consent request there with the reservation, and we will get it determined.

I am sure that my colleague, as much as I, wants to get as many facts and as much information on the subject to the public and available to the public. I am sure no objection will be posed to what I am trying to do, after there has been an investigation, because I know that my colleague wants to get information into the hands of the people not only in my State but also throughout the United States and in the hands of the media. I know that he is a very fair man and wants to see this information get out on the same basis that he and Senator Magnuson put out the information.

The PRESIDING OFFICER. The unanimous-consent request is withheld temporarily.

Mr. GRAVEL. Mr. President, as to some of the statements that were made, I do not want to get into an argumentative posture with the proponents of the bill, except that many statements were made that were in obvious error. I will not enumerate them. But when a person who has spent so much time on this legislation stands before this august body and says that we, the United States, do not fish off any foreign shores, it can only mean that there are some breeches in the knowledge and the base of information that is present to the Senate in this regard. I think that breach will be further appreciated when we examine the work of the Committee on Commerce and recognize that most of the data presented in the report comes from 1972.

I believe it also can be appreciated by this body that when people are quoting what happened in Caracas and what happened in Geneva, many of these inaccuracies or misperceptions will be cleared up in time, and we will have ample time to do that, come the first of the year, because I think we will be able to make the case that should be made as to what the status really is of the fisheries.

I think the case that is made is that what we have is a situation so desperate that it cries for immediate solution. I believe that one of the statements made by my distinguished colleague was that we cannot wait for an international agreement. We will make the case more than adequately, come the first of the year, that we have no choice but to wait; that the situation with respect to our fisheries is not as panicky as is indicated; that it does not require the emergency that is put forth, and that we can be deliberate and do things in a very intelligent and progressive fashion.

There is no question that we have seen the rape of our oceans. There is no question that we have seen excesses. But the fact of looking back a year, 2 years, 5 years, and 10 years and saying that that is the situation that must propel us into some action that may not be thought out properly and whose consequences may be detrimental to the national interest is not very wise. We have to look at what the situation is today.

What happened in the most recent negotiations last September? What happened in the negotiations we just had in November? The Committee on Commerce cannot shed too much light on that, because the report they have is really based on data and information that comes from 1972. I say to the Commerce Committee and the proponents of this bill that much has happened since 1972 and a lot of good things will not happen and a lot more good things can happen in the future if we have the patience and the perspicacity to realize this.

So I will make the case as to what is really the status of our fisheries today or what will be the status next January, when we proceed to the consideration of this legislation. That case will be very revealing. Those who want to pursue the details of that case can avail themselves of this document that we hope to get printed. I am sure that my colleague will not interpose a permanent objection, because he has a similar interest in getting information to the public.

The next case that is going to be made is going to show what impact this legislation will have on our fisheries. I maintain that that impact will be severe and could be detrimental. The details of that case are partially—more than partially—put forward in this document. I think it will show incontrovertibly that we will lose more from this legislation in term of dollars—actual dollars—gross revenue to the Nation, and I think we want to look with respect to this problem in terms of acting as a nation; that we will lose more money than we will gain; and that, commensurate with that, we will lose more jobs than we will gain. I do not think that the Senate, in its wisdom, is going to press for legislation, particularly when our economy is in dire straits, that will deny income to American citizens and to American industry and that will, at the same time, produce more unemployment to American industry. I do not think the Senate will do that. But that case will be made in one of the factsheets presented.

In another factsheet, we will show the effect of this legislation on something that is very dear to the economic interest of my State and to the people of Alaska. That is, of course, the impact that this legislation will have on salmon. I think anybody in this body who is knowledgeable is well aware that salmon are not all that knowledgeable on existing law and that it is difficult for salmon to read the Congressional Record. It is difficult for salmon to understand the law as we want to put it out. I think that we can pass a law here and say that we want

200 miles, but it is going to be difficult for the salmon to obey that law, because there are inner instincts, within the salmon, that propel them to swim beyond 200 miles. When they get out there beyond 200 miles, they are unprotected by this legislation. [Secs. 2(b)(1); 102(2); 202(a)(4)(B)] Therefore, they can be caught by somebody.

Now, we can put a little cosmetic on this legislation, because we recognize that salmon will not obey this law. The cosmetic will say that those salmon who go beyond 200 miles, we are going to control. [Secs. 2(b)(1); 102(2); 202(a)(4)(B)] We are passing a law here that is supposed to take care of the 200 miles. [Sec. 101] But we are trying to do a little cosmetic thing, hoodwink the fishermen—particularly the fishermen in my State. And the word is hoodwink, because I think, basically, we understand that the salmon do go beyond 200 miles. But we are going to say, oh, there is no danger, because we, in the United States of America, the most powerful Nation on Earth, with all of our destroyer fleets, we are going to tell the world that those are our salmon, and do not touch our salmon. That is essentially what this legislation says. [Secs. 2(b)(1); 102(2); 202(a)(4)(B)]

I submit that all that is cosmetic. We are not going to go to war over protecting the salmon that swim beyond 200 miles. So, essentially, we will have hoodwinked the fishermen into thinking that they have an element of protection when, in point of fact, they do not have protection. In point of fact, what happens is that we raise aspirations. This is an issue that is highly emotionally charged. What we are going to do is raise aspirations that cannot be satisfied. That is to raise to a higher emotional crescendo this issue. What that means, of course, is that we get into a situation where we call upon greater and greater layers of emotion and less and less soundness of thought. Obviously, that is very, very volatile and makes for a very dangerous situation.

After that case is made, and I think that case can be made, and is readily recognized, we will make the case next year as to what the impact of this will be on the treaties that we have. There are many representations made that we just do not violate treaties. We will have an effective date change and I might add that, tangentially, there will be an effort made by proponents of this legislation to change the effective date of this legislation so that it becomes effective in January 1977. [Sec. 104]

The reason that effort will be made is, very simply, that if they do not put that forth, then there will be a very clear violation of many treaties, if we pass this legislation. That was a point that I brought out publicly. There is no response to that point, other than the fact that we, the great American Nation, would be lawbreakers. So, to try, again, to apply a little cosmetic so that this thing will sort of wash in a very superficial fashion, what we will do is move out the effective date and that will — [Sec. 104]

Mr. STEVENS. Will my colleague yield?

Mr. GRAVEL. No, I choose not to yield.

Mr. STEVENS. I do not want him to misunderstand what I said.

Mr. GRAVEL. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Alaska (Mr. Gravel) has the floor.

MR. GRAVEL. I did not interrupt my distinguished colleague from Alaska and I did not interrupt the Senator from Washington and I should like to be accorded the same privilege, just as I will be accorded the privilege of having a document printed just as my colleagues had a document printed, because I am sure we are interested in getting this subject up.

I am sure that when we get to correcting this legislation, we will pass a law, telling the State Department, "You go out and negotiate this law." That is an interesting situation. That says, "We are not going to break any laws, but if you do not negotiate what we pass in law, then forget it, get out of whatever treaties you are in. If these treaties do not conform to our law, then that is the end of them. That is the end of that treaty; get out."

We can call that not breaking a treaty. I would call that still breaking a treaty. I would call it breaking a treaty only with a little innuendo, a little tour de force. But in point of fact, if you look at it, we have broken a treaty.

I think most people can realize that when we pass a law, it alters the existing economic situations, the existing consultation situations, all the situations we have in treaties and tell them, that is the law of the land. When you tell negotiators to go out and negotiate that, what we are saying is, you go out and tell those Russians, tell those Japanese, tell those South Americans, and tell those Europeans that they now have to obey U.S. law.

Now, they have laws in their countries, too. When these laws come into conflict, what we do is negotiate an understanding. That is called a treaty. But when we go out and unilaterally tell the State Department to deliver an ultimatum that now they have to live by our law, that is not accommodating ourselves to a treaty. That is not even negotiating a treaty. That is just delivering to them an ultimatum; and when the United States of America, the most powerful nation on earth, does that, what we are doing is saying, "Hey Charlie, I am the strongest guy on the block and you just do what I say."

That is going to be an interesting development that is going to take place. I do not want to see that development take place, because I think it would be an unbelievable tragedy.

I think that, next year, we will also be able to show that this legislation clearly violates international law. I think we Americans take great pride, and with good reason, that we abide in the law. I think we shall be able to bring before the Senate the testimony of every international authority in this country who has any respect and standing, and their views are, to the man that this breaks international law. We can cavalierly dismiss that we are breaking international law. But, I submit, we do this at great peril, because these experts who have studied the law, who are aware of the international situation, cannot be put aside. If we do it, we will be viewed as law breakers in the world. We will be law breakers. That is not a situation I should like to see my country be in.

Again, in January, we shall be able to show and develop what will be the impact of the passage of 961 on the Law of the Sea Conference.

[Sec. 401] We are told that we have to pass this legislation in order to

put pressure on the conference. [Secs. 2(c)(5); 401] Well, that is fine if we are the only people in the world. But we are not the only people in the world. At this conference, there are 150 nations, the largest convocation in the history of the human race. If we go there with a posture of arrogance, so tied with an imperialistic attitude, that conference will fail. That would, in my mind, totally jeopardize the conference. Now, we can pass a piece of legislation. Then we can decide that that legislation will self-destruct when the conference is completed. [Sec. 401]

We can decide to do various things. We are a very sophisticated people. We are a very responsive democracy. But what happens after we act? Mexico acts, as they are in the process of acting. In fact, I talked with a Mexican official, and the reason why their President brought forth a constitutional change—and I want to emphasize there is a constitutional change—of talking in terms of paternal seas, not talking about what we are talking about; we are talking about fisheries [Secs. 2(c)(1); 2(c)(2); 101], and they are going to take considerably more than that, but then again, if we can unilaterally take our fisheries [Sec. 101], why can they not take whatever they perceive to be in their unilateral interest and, of course, they will.

If we take our fisheries unilaterally because it is in our economic interests [Sec. 101], why cannot Malaysia take the Straits of Malacca and charge a toll. That is in their economic interest.

If we take what we think is in our interests off our shores [Sec. 101], why cannot Morocco and Spain, as they have already indicated, charge a toll for tankers that will go through the Strait of Gibraltar. Why not? What is the difference? Egypt charges a toll for going through the Suez Canal. If a tanker were to run aground going into the Strait of Gibraltar it would pollute the Spanish coast and the Moroccan coast.

They are entitled to protect themselves. We are not talking about just ourselves in the world.

So, if we go out and say, "Hey, you nations, get out of this 200-mile zone, you are doing harm to our economic interests as we perceive them," and they tell them to get out [Secs. 2; 101], why can they not tell us to get out of other parts of the world? That is what will happen. We will set in motion with this legislation a chain reaction, and that is where the damage occurs, a chain reaction around the world where everybody will go for his interest as he perceives it.

We will bring about anarchy on the high seas, and we will bring about a situation from which we cannot return. We will not be able to say, "Well, now, we are ready to negotiate. We have taken what we want, let us sit down at the Law of the Sea Conference. We are prepared to negotiate for the rest of what is interesting to the rest of the people of the world."

Well, the rest of the people in the world will tell us, "Hey, you just took what you wanted, we want to take what we want and then maybe we will think of discussing something." That is what is going to happen. So our actions will have triggered it.

Now, it is OK when Iceland does it, and they can turn around and start a cod war. You know, they took 50 miles, and they went to the International Court and lost that case, so they turned around and took

200 miles, so you have got now the British having to send in their vessels, their warships, in order to protect their fishing vessels. Is that what we want to get ourselves into where we have to get out our destroyers on picket duty around the United States ready to shoot down any foreign vessel? Is that the threshold we want to raise the world to, the tinder box we live in where we have a proliferation of nuclear capability in every two-bit nation in the world? Is that what we want to do? That is, of course, what we can do and what we will do if we let this legislation come into being.

That, of course, is what would happen to the negotiations. We would be the ones who would destroy them. How tragic, we, who are the major pushers for the Law of the Sea Conference, because we recognize, at least I recognize, that is the only way we are going to get a real 200 miles, I am for the 200 mile limit. We recognize that is the way we are going to get control of our salmon, and we recognize that is the way, we recognize we are going to be able to take a step forward in bringing about understanding in the world, because we recognize that through international sovereignty for the first time the human race will make a small, baby step forward toward a sane existence, and we recognize that this conference offers to the human race for the first time the ability to have law, mandated law, upon the human race. All these opportunities are within our reach if we recognize that the best way to get them is through an international forum and not through international action.

I think we will be able to develop that case in the courts of the deliberations coming forward in January.

I think we will also be able to make another case. We have heard it said there is no progress being made on the Law of the Sea Conference and, by God, they have been going on forever is what is said. "No, we cannot wait any more." Well, those are not the facts. It depends on the perception and definition you want to give it. If you say that negotiations over the seas has been going on for a long time, I will tell you they have been going on since the birth of mankind. That is how long they have been going on, just like the negotiations for peace have been going on since the birth of mankind.

But if you are talking about the United Nations Conference on the Law of the Sea that is presently being undertaken at this time you are not talking about a long time, and anybody who says you are talking about a long time is not presenting the facts correctly.

The first meeting of the Law of the Sea Conference that we are talking about took place in the spring of 1974. It had 2 weeks. The next meeting they had was in the summer of 1974, and that was in Caracas and that was 8 weeks. Then the next meeting you had was in Geneva in the spring of this year, and that was for 9 weeks. So, all told—and I will throw in an extra week for arbitrariness—we are talking about 20 weeks.

People stand here frustrated that a convocation of a hundred and fifty nations over one of the most complex subjects we have ever had to face has not produced an end result, a final accomplishment in 20 weeks of deliberation. My God, if the Senate of the United States or the Congress of the United States could act deliberately as this international conference has acted, we would live in a Utopia today.

The conference, in my mind, has been very progressive and has accomplished a great deal. In Caracas, from my provincial point of view, from the point of view of Alaska, we accomplished the most important thing of all. We accomplished a general agreement on the 200 miles. The United States of America had opposed the 200 miles up until that time. All the major powers of the world, the Soviet Union, Japan, had opposed the 200 miles, and so we go to Caracas, and we win the 200-mile agreement. There is no dispute over the 200 miles right now in the world community. We are going to get that out of this agreement.

So people say, people who are knowledgeable say, there was no accomplishment in Caracas. My God, the greatest accomplishment that could ever happen to Alaska was accomplished in Caracas.

Then we look at Geneva and they say nothing happened in Geneva. They say, "I went to Geneva, I looked around, and nothing happened." In Geneva what we saw, we saw at the end of the session came forward a document which is called the single negotiating text, a document that we will show as more than 80 percent agreement in the world community.

Now, if I were able to introduce a piece of legislation on this floor that had 80 percent agreement, consensus agreement, I would introduce it, walk to my office as happy as I could ever be knowing that I am secure that it will become law because all you need is 51 percent agreement. But there is 80-percent consensus agreement on what exists in the unilateral text, on this single negotiating text.

I can understand where the confusion will take place by many of my colleagues because when they look at the negotiations in the international arena, these negotiations are a little different. I can understand where there might be some misperceptions that could occur, misunderstandings as to what really happened.

When the President of the United States or the Secretary of State of the United States goes to a foreign nation to negotiate a treaty he does not go to that nation and take out a document, hold a press conference, and say, "Here is the treaty. Now we are going to negotiate line by line." Of course not. He goes there, sits down and negotiates with one or more nations, and at the end of those negotiations up comes a document that everybody is in agreement with, and they sign it. That is the international process because when you are negotiating internationally you do not negotiate from a basis of sovereignty. Each nation comes forward with its sovereignty, but there is no sovereignty compelling action, there are no devices. You suffer one another, so to speak.

So what has happened in the single negotiating text where people have confused it, well, they are just beginning to put a document in, that is not what is happening in the international arena. What we are seeing is the end of the process, not the beginning because what is floated in this single negotiating text is basically the consensus that is floating around in the world, and it has come together in this one document.

Now, what needs to be done is to go through the refinements, the hangups, and there are some, and there are some areas of disagreement,

but I think there is sufficient goodwill within the international community so that we can see these resolved if they are not jeopardized, if they are not thwarted. This legislation would thwart that situation.

When we talk about the impatience of this body, we are going to have a meeting in March, and the resolution that was passed a week ago Friday in the United Nations said that we will have the meeting in March, from March 15 to May 7, and that if the conference does not complete its work we will meet in the summertime.

We will get the money put aside for the interpreters and for the space and everything to be involved. In fact, the cost is around \$2 million. That is the money that was put aside by the United Nations to pay for the summer conference.

For those who have no confidence that we are close to accomplishment—and I cannot stand here and guarantee it will be in 1976, it could be in 1977, 1978, I do not know—but I do know if we pass this legislation it will not be in 1976, or 1977, or 1978.

In fact, the opponents of this bill say, "Well, it won't be for 5 or 10 years."

They have set themselves up a self-fulfilling prophecy because if this legislation passes, it will guarantee that the conference will not succeed.

So they will have been right. They will have passed legislation saying that the conference cannot succeed, so, therefore, we pass this legislation and if it passes, it will have that effect.

That is the great tragedy and the great confusion in this regard.

No, Mr. President, I think the conference has a chance, and to prove it, the last paragraph of the resolution that was passed last Friday in the United Nations, the last paragraph talked about the fact that they are making plans to go sign the final agreement in Caracas in early 1977.

That may not take place, but that is the kind of optimism that exists, so much that they are prepared to put it on paper and pass it as a resolution in the United Nations.

That is not binding, but, to my mind, it does mirror the degree of optimism that exists in that regard.

Mr. President, that is just an overview of the case we are going to begin to make in January. I just wanted to give a smattering of what is involved.

Again I want to renew my unanimous consent to get information into the hands of the American people, my colleagues in the Senate, on the same basis Senator Magnuson and Senator Stevenson got information to our colleagues, because I know the majority leader stated repeatedly, I know it is a basic part of his belief, we are all equal in this body. Though I may not be a full committee chairman, when I stand here on the floor I am equal to my senior Senator from Alaska and I know I am equal to Senator Magnuson and I know this august body would not want to have inequalities take place in a case we try to make to the American people and to our colleagues in the Senate.

So again I renew my unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I reserve the right to object again, based upon the previous statement that I made, and I do object temporarily.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAVEL. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I thank the Senator and I hope my colleague from Washington will return.

Mr. President, I want to assure my colleague, the Senator from Alaska, there are no cosmetics in this bill. I wish he would listen to this, as we go through the debate, because the camaraderie could evaporate very fast if these remarks continue on this level.

In the first place, there was nothing cosmetic about the effective date. The amendment we have would make this bill effective upon signature. [Sec. 104] The enforcement data would be delayed until we had the mechanism in place for enforcement. [Sec. 312]

Second, with regard to experts in international law, I am perfectly willing to sit and listen to any expert that wants to say he is an expert.

A friend of mine used to say that an expert is a dumbhead away from home. But, as a practical matter, these experts are the same ones who, when Senator Bob Bartlett and Senator Magnuson moved to extend the U.S. fisheries zone to 12 miles, screamed there would be anarchy on the seas and that we would have all the straits closed in the world. They said that legislation would bring about total, total revolution of the seas.

That is what they said before and I would be glad to go back and get some of those statements from experts.

These same people today come forward and say, "If you create a fisheries conservation zone, out to 200 miles, you are going to have anarchy."

That, to me, is a statement from someone who does not recognize how international law is created. International law comes into being through acceptance throughout the world on a consensus basis.

It certainly does not come into being because some professor at Harvard writes a paper about how it is going to come into being. I say that advisedly after having come through that institution and having great respect for it. But I am not overimpressed by Harvard lawyers or professors who try to say the 200-mile zone would be in violation of international treaties when the 12-mile zone which they said was in violation of the international treaty has not been so interpreted.

As a matter of fact, there are 32 strategic straits in the world. Seventeen of them have 12-mile limit closures. None of those 17 have, in fact, been closed to international traffic since the world recognized, following the lead of the United States, a 12-mile limit.

We have prepared and presented to this Congress a 200-mile bill. Congressman Studds initiated such legislation on the House side and I initiated it on this side. At that time, no one felt we could ever get a consensus on it.

In the period of 7 years, there is, in fact, now consensus in the world on a 200-mile conservation zone and it has come about because Members of the U.S. Congress have been willing to fight for protection for the fisheries resources themselves. [Sec. 101]

We are not fighting for anything on a personal basis and anyone that puts it on that basis, I think, is misguided. The concept is, shall the living resources of the sea have a chance to survive? [Sec. 2]

Mr. President, last year alone within 200 miles of our shores there were 3.2 billion pounds of fish taken.

The major fishery within our shores is, in fact, the Alaska pollack, where they have taken 2.3 billion pounds in 1 year of 1 specie. That pollack, in fact, the basic food chain for the Bering Sea and in North Pacific and if it continues even another 2 or 3 years, it will go the way of the California herring. It will disappear from the ocean.

We cannot stand that kind of pressure. Even if my colleague were correct that they are going to wrap this up in 1977 and initial the treaty, if he is correct, it will be 6 or 8 years until that is enforceable in the world, and to me, never be enforceable against Japan and Russia, if they do not sign the treaty, unless we have the fortitude to pass interim legislation [Sec. 401] unilateral and enforceable because we are declaring it enforceable, just as the other nations of the world have. [Sec. 101]

I would say one last thing, I understand the Senator from Wisconsin wishes the floor and I will be happy to yield to him when he comes.

My colleague says that there is 80-percent agreement in the Law of the Sea Conference and if those of us who have been there understood that Conference—and mind, I think I have sat through more days of the Law of the Sea Conference than any Member of the Congress, so I think I know what is going on in the Law of the Sea Conference—he says that if we understood it we would understand there is 80-percent agreement, 80-percent consensus.

That is like saying there is 80-percent consensus in the House right now in agreement with the President over the fact that we should limit spending next year. I am sure my colleague understands that there is an 80-percent consensus that spending should be limited. The question of how it should be done and what the language is to accomplish it is something else. There has never been one vote—not one vote to date—in any session of the Law of Sea Conference.

We cannot have an 80-percent consensus on objectives and make that into an 80-percent consensus in agreement on particular text, negotiated text.

He talks about the single text which is the product of three separate men. The chairman of the separate subcommittees of the law of the sea have produced three separate provisions that became, when united, the so-called single negotiating text. But no negotiation has taken place yet.

In the 1958 convention there were 86 nations. As I said, it took us 8 years to agree that that product of that 1958 conference was enforceable. After they reached an agreement, it took 8 years before it was promulgated as being enforceable.

In the 1960 conference, 89 nations met and I am informed they failed to reach an agreement on the extension of national jurisdiction because they could never reach a conclusion on the specific language to accomplish their purpose.

Now there are 145 nations in the Law of the Sea Conference, 77 of whom have banded together. They are basically noncoastal nations de-

manding their rights as they perceive them from the products and the wealth of the oceans.

I would predict that once there is a Law of the Sea Conference Treaty agreed to in principle by the negotiators, it could be as long as 10 or 15 years before the President of the United States would notify the Congress that that had become acceptable international law and was enforceable in the world bodies, particularly the World Court.

Under these circumstances, I say we cannot tolerate any further delay. If my colleague wishes Alaska pollack to go the way of California herring, that is his business. I would state to the Senate that I am convinced that more than 90 percent of the Alaska people favor this bill. To my knowledge, there is no one I know who favors delaying this bill in favor of waiting for the Law of the Sea Treaty who is involved in the fisheries organizations of Alaska, but for one group.

I have held hearings along with Senator Magnuson, Senator Pastore, and Senator Kennedy all over the country. In the hearings we held in my State in 1974 there was not one dissenting voice to this legislation. In 1975 there was only one dissenting voice that I recall in Washington State, and that was the former Ambassador McKernan. We now have correspondence from him in which he states that, because of the delay of the Law of the Sea Conference, he is prepared to accept this legislation and support it.

I say, Mr. President, I am looking forward to returning, because I believe my colleague and I are going to have some fun off this one. I read to him his statement of March 5. One would think it was me.

As last year's Commerce Committee on this measure pointed out, the inroads of foreign fleets on American coastal fisheries is destroying this valuable resource. Further delay is encouragement for these foreign fleets to take what they can get as soon as possible. A workable international pact is years away. Our coastal fisheries cannot tolerate that further exploitation.

That quote is not this Senator from Alaska; it is the other Senator from Alaska, this year. I say there is no reason for delay on this legislation.

I am happy to yield to my friend from Wisconsin, subject, of course, to my colleague replying.

Mr. GRAVEL. Will the Senator yield for a moment?

Mr. PROXMIRE. Certainly.

Mr. GRAVEL. I hope when I am 80 years old, Mr. President, I will have the ability to change my mind when I acquire more knowledge. If I have changed my mind because of new facts given me, and if my colleague thinks that is a decrement in the colloquy or in the argument that we have, I can only tell him that it is an asset.

I do not want to see Alaska's pollack disseminated. I believe we can solve that problem and we will show that next year. I do not want to do something that will give apparent control over pollack and lose the salmon. We do not have fishermen in Alaska who fish for pollack. They happen to fish for salmon. That is just a slight distinction in that regard.

I would like to pose an inquiry and then I will be happy to yield.

The majority leader asked me to put on a quorum call to get him back here.

Mr. STEVENS. He asked us to yield to the Senator from Wisconsin.

Mr. GRAVEL. I yield the floor, Mr. President.

94TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ No. 94-515

FISHERIES MANAGEMENT AND CONSERVATION ACT

DECEMBER 8, 1975.—Ordered to be printed

Mr. McINTYRE, from the Committee on Armed Services,
submitted the following

REPORT

together with

SUPPLEMENTAL AND MINORITY VIEWS

[To accompany S. 961]

The Committee on Armed Services, to which was referred the bill (S. 961) to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain areas in order to conserve and protect such fish from depletion, and for other purposes, having considered the same, reports favorably thereon with amendments to the text and recommends that the bill as amended do pass.

COMMITTEE AMENDMENTS

(1) At the end of the bill add a new title as follows:

TITLE IV—EFFECTIVE DATE

[Sec. 104] SEC. 401. This Act shall take effect on January 1, 1977.

[Sec. 202] (2) On page 44, line 16, strike the words "September 30, 1976" and insert in lieu thereof the words "January 1, 1977".

PURPOSE OF THE BILL

[Sec. 2(b)] S. 961 would extend U.S. fishery jurisdiction and management authority over a 200 nautical mile zone off U.S. coasts, over fishery resources of the Continental Shelf, and over anadromous species which spawn in U.S. waters wherever they may range on the high seas. The bill seeks to protect the U.S. coastal fishing industry

through regulation or exclusion of foreign fishing within the 200 mile conservation zone.

By its terms the purpose of S. 961 is "to take immediate action to protect and conserve the fishery resources of the Nation by declaring management and conservation authority over such resources . . .". The legislation establishes a national fishery management program to achieve this purpose.

EXPLANATION OF COMMITTEE AMENDMENTS

[Sec. 104] *New effective date*

This Committee amendment would delay the effective date of the bill until January 1, 1977. In the absence of this provision, the bill would become effective upon enactment into law.

Although it was not optimistic about prospects for reaching a Law of the Sea agreement on fishery issues within the next year, the Committee wanted to make every effort to minimize the possibility that enactment of S. 961 would interfere with negotiation of any broad fisheries agreement in the near future. Indeed, the Committee is hopeful that delaying enactment of S. 961 until January 1, 1977 will serve as an incentive to the Law of the Sea Conference to expedite a comprehensive agreement on fishery jurisdiction and conservation.

In addition, the delayed enactment of S. 961 could provide a useful period for executive branch preparation regarding the implementation and enforcement of the fisheries management program as well as the renegotiation of any existing treaties or conventions which may be inconsistent with this bill.

[Sec. 202] *Substitution of "January 1, 1977" for "September 30, 1976"*

This is a technical amendment to bring the timing of the renegotiation of any existing fishery agreements into conformity with the amended effective date of the bill.

BRIEF DESCRIPTION

Title I of S. 961 establishes a fisheries conservation zone contiguous to the U.S. territorial sea and extending for 200 nautical miles from U.S. coasts. **[Sec. 101]** Within this 200 mile zone the United States would exercise exclusive fishery management authority. **[Sec. 102]** The United States would also exercise exclusive management authority over fishery resources of the Continental Shelf **[Sec. 102(3)]** and anadromous species—such as salmon—throughout their migratory range. **[Sec. 102(2)]**

The level of foreign fishing, if any, would be set upon "the basis of the portion of the allowable catch of any fishery or stock of fish which cannot or will not be harvested by vessels of the United States. **[Sec. 201(d)]** U.S. fishery jurisdiction would not apply to highly migratory species such as tuna. **[Sec. 103]**

The Secretary of State is directed to initiate negotiations to amend or terminate any treaty, convention or international agreement to which the United States is a party whose provisions are inconsistent with S. 961. **[Sec. 202(a) ; 202(b) ; 202(c)]**

S. 961 would be an interim measure in the sense that it would expire at such time as any comprehensive treaty with respect to fishing jurisdiction comes into force or is provisionally applied. [Sec. 401]

Title II would create a national fishery management program which would, among other things, establish national standards for fishery management. [Sec. 301] Seven Regional Management Fishery Councils would be established [Sec. 302] and empowered to recommend management plans and regulations to the Secretary of Commerce. [Secs. 302; 303] The Secretary of Commerce is authorized to regulate fisheries within the expanded U.S. jurisdiction to "prevent over-fishing, rebuild overfished stocks," and "insure conservation". [Sec. 304]

Title III provides powers to the Secretary of Commerce and the Secretary in charge of the Coast Guard to enforce the provisions of the bill. [Sec. 311] It also sets forth criminal penalties for actions violating provisions of the bill or regulations issued pursuant to the authority provided in the bill. [Sec. 309]

For a more detailed description of the bill as well as a section-by-section analysis, see the Senate Commerce Committee Report on S. 961 (Senate Report 94-416, October 7, 1975).

LEGISLATIVE BACKGROUND

S. 1988, the predecessor bill to S. 961, was introduced on June 13, 1973 by Senator Warren G. Magnuson. The bill was ultimately referred to the Armed Services Committee and on November 27, 1974 the Committee, by a vote of 8 to 6, favorably reported the bill to the Senate. The bill passed the Senate but died in the 93d Congress due to inaction by the House of Representatives.

S. 961 was introduced on March 5, 1975 by Senator Magnuson and was co-sponsored by 19 Senators. S. 961 went far beyond S. 1988 by creating a program for fishery management with the accompanying powers, structures, and procedures necessary for effective implementation. Except for fishery conservation and management, S. 961 was similar to S. 1988 in all essential respects.

In its hearings and report on S. 961, the Commerce Committee documented the plight of U.S. coastal fishery stocks and the economic pressures on the U.S. coastal fishing industry. The Committee concluded, consistent with the findings set forth in the bill itself, that numerous critical fishery stocks off U.S. coasts were being severely overfished and threatened with irreversible depletion. Existing international fishing agreements and the recent sessions of the Law of the Sea Conference had not been successful in solving the overfishing problem. As a result, a 200 mile coastal fishery jurisdiction with the authority to exclude foreign fishing vessels and regulate all fishing efforts should be established immediately. [Secs. 2; 101; 102; 201]

On October 7, 1975 the Senate Commerce Committee by voice vote favorably reported S. 961.

In the meantime, a bill comparable to S. 961 passed the House of Representatives by a vote of 208 to 101 on October 9, 1975.

S. 961 was subsequently referred to the Senate Foreign Relations Committee. By a 7 to 6 vote the committee reported the bill unfavorably on November 18, 1975. The Foreign Relations Committee emphasized that the adoption of S. 961 at this time "... would be inconsistent with the spirit of existing U.S. international legal obligations, particularly the 1958 Convention on the High Seas. . . ." The Committee also expressed concern in its report that S. 961 might undermine U.S. negotiating efforts at the Third United Nations Law of the Sea Conference and "subvert U.S. credibility on all future ocean issues and negotiations."

COMMITTEE ACTION

On November 18, 1975, S. 961, by unanimous consent, was referred to the Armed Services Committee with instructions to report back to the Senate not later than December 2, 1975. Hearings were held before the full Armed Services Committee on November 19th with Admiral James L. Holloway, Chief of Naval Operations and General David C. Jones, Chief of Staff, United States Air Force testifying in opposition to the bill on behalf of the Defense Department. The Honorable John Norton Moore, Chairman of the National Security Council Interagency Task Force on the Law of the Sea and Deputy Special Representative of the President for the Law of the Sea Conference also testified on behalf of the Administration in opposition to S. 961.

The reporting date for the Armed Services Committee was extended by unanimous consent for December 2, 1975 to December 5, 1975 and finally to December 8, 1975.

The Armed Services Committee met in both open and closed sessions on December 3, 1975. After a full discussion, the Committee unanimously adopted an amendment offered by Senator Taft to delay the effective date of the bill until January 1, 1977. [Sec. 104]

By a margin of 9 to 7 the Committee voted to report favorably S. 961, as amended. Senators Symington, Jackson, Cannon, McIntyre, Byrd of Virginia, Nunn, Leahy, Scott of Virginia, and Taft voted in favor of the bill; Senators Stennis, Culver, Hart of Colorado, Thurmond, Tower, Goldwater and Bartlett voted against the bill.

DISCUSSION

United States faces serious coastal fishing problems

Due to massive overfishing off both the Atlantic and Pacific coasts, U.S. coastal fishery stocks have been steadily depleted. The depletion of some stocks has been so severe that they have become virtually extinct for purposes of commercial fishing. Coastal fishery stocks, which are a renewable source of food, are one of the most valuable ocean resources of the United States. The crisis condition of these stocks is such that if conservation measures are not quickly implemented, some stocks may be depleted beyond the point of self-renewal. [Sec. 2]

While overfishing and the consequent depletion of U.S. fishery stocks has continued at a growing rate for more than a decade, the catch of the U.S. fishing fleets has remained relatively constant. At

the same time the catch of U.S. coastal fishing fleets has dramatically declined as a percentage of the total catch off the U.S. coasts. Huge foreign fishing fleets which use "factory" fishing methods and are often subsidized by foreign governments are in large part responsible for this overfishing problem. [Sec. 2]

In the face of extensive and continual overfishing, fishery stocks can now be renewed only through aggressive conservation measures regulating the allowable catch quotas for individual species of fish. The committee is convinced that a comprehensive fishery resource conservation program is sorely needed. [Sec. 2]

The various bilateral and multilateral fishery agreements to which the United States is a party have been unable to prevent serious overfishing along U.S. coasts. These various fishery agreements have not resolved major issues among fishing nations, have not achieved crucial conservation goals and have been without workable enforcement schemes. The ineffectiveness of these agreements is apparent when nearly every specie of fish subject to agreements between the United States and the Soviet Union and Japan can continue to be fished at levels exceeding the maximum sustainable yield for those species. Thus, bilateral and multilateral fishery agreements have not resolved U.S. fishery problems and hold little promise of providing essential relief in the near future. [Sec. 2]

S. 961 on the other hand would provide a comprehensive program for fishery conservation by establishing a national program for fishery management and conservation. [Sec. 2] This program includes national conservation standards. [Secs. 2; 301] explicit regulatory authority, [Secs. 2; 102] and ample enforcement powers. [Secs. 2; 311]

The extent and urgency of the U.S. coastal fishery problems have been well established. The committee believes that S. 961 will provide an effective means of overcoming these fishery problems. [Sec. 2]

S. 961 relates strictly to fishery jurisdiction and does not affect other ocean interests [Secs. 2(c)(1); 2(c)(2)]

S. 961 is a bill of limited scope. It deals merely with fishing jurisdiction. It authorizes regulations only as to fishing practices and only in connection with fishery conservation. [Secs. 2(c)(1); 2(c)(2); 101; 102] The bill provides for fishing by foreign nations within the 200-mile fishing zone based on traditional fishing rights and consistent with sound conservation. [Secs. 201(c)(1); 201(c)(2); 201(e)(3); 202(a)(4)(B); 202(a)(5); 303(a)(1)] Moreover, the fishing jurisdiction established in S. 961 is an interim measure and shall expire when a comprehensive treaty regarding fishery jurisdiction comes into force or is provisionally applied. [Sec. 401]

Several committee members believe that despite the narrow language of the bill, the limited nature of S. 961 has not been generally appreciated. It is vitally important that the international community understand that S. 961 applies only to the regulation of fishing and fishery conservation and does not indicate an intention or desire by the United States otherwise to expand its sovereignty or jurisdiction. [Secs. 2(c)(1); 2(c)(2)]

Representatives from the Defense Department and the Law of the Sea Task Force contended that U.S. regulation of fishery resources under S. 961 would somehow justify or invite other nations to take retaliatory action against the United States over a wide range of unrelated ocean interests. Such dire contentions are purely speculative, unsupported by any direct evidence.

Enactment of S. 961, a fisheries management proposal, is clearly distinguishable from jurisdictional extensions which would infringe upon vital military ocean rights. [Sees. 2(c) (1) ; 2(c) (2).] In the case of military ocean rights, the underlying rationale for jurisdictional extensions, the associated risks and consequences, and the effect upon major world powers would be fundamentally different from the case of fishery conservation. The committee was unconvinced that ocean rights affecting crucial U.S. defense interests were so fragile as to be jeopardized by the extension of fishery jurisdiction.

Enactment of S. 961 would not violate international law

As a principle, freedom of fishing on the high seas has long been recognized throughout the world. As late as 1958, freedom of fishing was set forth as a basic ocean freedom in the Geneva Conventions to which the United States is a signator.

There has never been, however, a clearly defined international rule limiting the jurisdiction of coastal states over fishery resources. Freedom of fishing, particularly in recent years, has not been an unqualified right. Indeed, the Geneva Conventions recognized the special right of a coastal nation to unilaterally adopt conservation measures off its shores, even in areas of the high seas. Certain limitations on fishing activity are generally accepted. As the International Court of Justice stated in FISHERIES JURISDICTION CASE, (1974) ICJ 26:

State practice on the subject of fisheries reveals an increasing and widespread acceptance of the concept of preferential rights for coastal States, particularly in favour of countries or territories in a situation of special dependence on coastal fisheries.

The Court went on to emphasize that:

The preferential rights of the coastal State come into play only at the moment when an intensification in the exploitation of fishery resources makes it imperative to introduce some system of catch-limitation and sharing of those resources, to preserve the fish stocks in the interests of their rational and economic exploitation. *Ibid.* 27.

The necessity for placing limits on what has historically been an unrestrained right to fishing has developed during the last 25 years. Dramatic changes have recently occurred in the levels of fishery stocks, the technology of fishing and the extent of distant fishing efforts. [Sec. 2(a)] These changes have combined to produce wholly new conditions for world fishing and a world consensus, evidenced that the Law of the Sea Conference, for the establishment of extended coastal state fishery jurisdiction. Nearly 40 nations have already extended their fishery jurisdiction beyond 12 miles.

International law is inherently dynamic as well as ambiguous. The extraordinary changes and pressures affecting coastal fisheries make extended coastal fishery jurisdiction urgently needed. [Sec. 2] S. 961, by providing for a prompt renegotiation of existing U.S. fishing agreements and recognizing traditional fishing rights of foreign nations, is an orderly means to implement what is already a world consensus on fishing. [Secs. 201; 202] Rather than contradicting international law, S. 961 is a reasonable reflection of developing international law.

S. 961 will not affect present negotiations at the Law of the Sea Conference [Secs. 2(c) (5) ; 401]

The most recent session of the United Nations Law of the Sea Conference resulted in little measurable progress. There are over 100 nations involved in the Conference negotiations and a very broad spectrum of ocean issues which must be resolved. While a single negotiating text was developed at the Geneva session, not a single vote was taken on any of the positions included in the text.

Senator Thomas McIntyre, the committee's representative at the Law of the Sea Conference, reported to the committee that in his opinion "... a treaty would not be completed this year, next year or even in the near future." Senator McIntyre also reported that the best estimates of Ambassador John Stevenson, the former head of the U.S. negotiating team, put the conclusion of the treaty "... some 3 years hence with several years passing before all nations ratify the treaty and it becomes effective." The prospects for a timely Law of the Sea treaty which would begin to remedy the serious problem of U.S. coastal fisheries are bleak.

S. 961 is consistent with the U.S. negotiating position on an economic zone for fisheries at the Law of the Sea Conference. General agreement does exist among nations at the conference to establish 200-mile fishery zones off coastal States. Given that S. 961 closely parallels the language contained in the Law of the Sea negotiating text with respect to fisheries, it clearly reflects an international consensus on this issue. In addition, the establishment by S. 961 of a 200-mile fishery zone is only interim legislation which will terminate with acceptance of international agreement on fishery jurisdiction. [Sec. 401] S. 961 therefore supports rather than conflicts with the Law of the Sea negotiations. [Secs. 2(c) (5) ; 401]

To give the negotiations as much leeway as possible in the upcoming session of the conference, the committee amended S. 961 to delay implementation of the act until January 1, 1977. [Sec. 104] This delay hopefully will provide an added impetus to the U.S. negotiating team at the next session of the Law of the Sea Conference. [Secs 2(c) (5) ; 401]

CONCLUSION

S. 961 is needed to protect vital U.S. fisheries interests. [Sec. 2] The committee did not believe that considerations of national defense and security detracted from the urgent desirability of S. 961. Thus, the committee reports S. 961 favorably and recommends that it do pass.

SUPPLEMENTAL VIEWS

While I find myself very much in agreement with the Committee views on the necessity of passing this legislation without delay in order to preserve fish stocks which might well otherwise be dangerously depleted or destroyed, I feel some further comments should be made on the international situation surrounding this decision.

While the general prognosis on the results of the Law of the Sea Conference, from almost all sources other than our own official optimistic viewpoint, indicate that it is unlikely that any signed agreement relating to fisheries or other topics can result in 1976 or even 1977, I do not feel we should give up a last hope of that occurring. For that reason, I did ask that there be added to the Senate Bill, an effective date of January 1, 1977. [Sec. 104] to which all Members of the Committee have now agreed. And with this decision, it is my hope that the chances of some more definitive action by the Law of the Sea Conference next spring may be improved. Indeed, it seems that the passage of the legislation with such a time deadline should make more likely the meaningful progress on the subject at the Conference. [Secs. 2(c) (5) ; 401] Meanwhile, every effort should be continued by our government to work out bilateral agreements as protective as possible of the fishery resources involved. [Secs. 201; 202]

I am somewhat appalled by one aspect of the current and past discussions relating to this legislation and to the Law of the Sea Conference. At a recent informal meeting of representatives of many of the European nations and of Japan which I attended, the Law of the Sea Conference was discussed. I learned with alarm that there was no recognition by the participants at either the delegate or staff level, of the fact that the House action on this legislation and the proposed Senate action extended *only* to appropriate regulation of fishing with generous sharing of quotas and clearly indicates no intention or desire on the part of the United States to establish a 200 mile territorial zone. [Secs. 2(c) (1) ; 2(c) (2) ; 2(c) (4)] I can only judge from this ignorance that our own international representatives dealing with this subject have not made this position clear. It seems to me vital in our international interests and in the interest of appropriate progress for the Law of the Sea Conference that this situation be remedied as quickly as possible. It would seem that advocates in our government dealing with the subject have been so obsessed with attempting to convince Congress of the supposed dangers of our action as being interpreted as related to a territorial sea position that they have not bothered to present the true position in the international community. With the passage of this legislation, I hope they will do so.

ROBERT TAFT, JR.

MINORITY VIEWS

S. 961 is intended to prevent overfishing and the irreversible depletion of numerous fishing stocks along U.S. coasts and to protect the increasingly depressed U.S. coastal fishing industry. Coastal fishery stocks and the coastal fishing industry represent important U.S. ocean interests. Enactment of S. 961 can surely be expected to promote these particular U.S. ocean interests. [Sec. 2]

But enactment of S. 961 can also be expected to affect adversely other vital U.S. ocean interests. Enactment of S. 961 would be inconsistent with international law and constitute a drastic reversal of the long-time U.S. policy of trying to settle contentious international issues through negotiation and agreement rather than unilateral action and coercion. Enforcement of S. 961 against non-consenting fishing nations could result in dangerous armed confrontations. S. 961 would undermine the prospects for successful negotiation of a comprehensive Law of the Sea Treaty which is by far the best way to secure all the various U.S. ocean interests. Perhaps most importantly, S. 961 would jeopardize the existing world order for freedom of ocean navigation which is so crucial to both U.S. strategic and conventional defense efforts.

Because of these adverse effects, we feel that enactment of S. 961 at this time would not, on balance, be in the best overall interests of the United States.

S. 961 is inconsistent with international law

The 1958 Geneva Conventions, which sought to codify international law with respect to oceans, established freedom of fishing as one of four basic ocean freedoms. As a signator the United States officially endorsed the declaration, contained in Article II of the Convention on the High Seas, that these four freedoms "are recognized by the general principles of international law" and "shall be exercised by all States with reasonable regard to the interests of other States". The unilateral and exclusive extension of fishery jurisdiction by the United States contained in S. 961 directly violates the freedom of fishing. [Sec. 101]

In practice, the United States, like the majority of nations, has steadfastly refused to recognize any unilateral claims for expanded ocean sovereignty, including fishing jurisdiction of 200 miles. The United States has regularly endorsed the policy of settling competing ocean claims through international agreement or adjudication rather than resorting to unilateral assertions.

The world community has likewise embraced a policy of international agreement and adjudication for resolving conflicting ocean claims. In 1974 Great Britain instituted proceedings in the International Court of Justice against a unilateral extension of fishery jurisdiction by Iceland. The Court held that Iceland's declaration of a 50-nautical mile fishery zone was not enforceable under international law.

To be sure, fishing conditions have changed since 1958. Some nations—fewer than 15—have asserted 200-mile fishery jurisdiction. Indeed, there presently is a consensus among nations that a 200-mile fishery jurisdiction for coastal states would be desirable. But these considerations, in the face of international treaties, practice and case law to the contrary, cannot change international law. Similarly, prevailing international law, however fragile, cannot be overturned by the unilateral action of a single nation.

In addition to being inconsistent with international law, S. 961 would conflict with many bilateral and multilateral fishing treaties to which the United States is presently a party. If not immediately abrogated or renegotiated, existing treaty provisions inconsistent with S. 961, provisions such as those setting allowable fishing quotas, would be nullified under U.S. law. [Secs. 201; 202] This is particularly unfortunate when bilateral and multilateral agreements negotiated during the last year have resulted in substantially lower fishing quotas along U.S. coasts.

By acting contrary to international law and treaty obligations with regard to a fundamental ocean freedom, the United States will be resorting to a dangerous and uncertain approach to resolving ocean issues.

Enforcement of S. 961 could result in armed confrontation

The 200-mile fishing conservation zone established by S. 961 would cover roughly two million square miles of ocean. U.S. jurisdiction over anadromous species wherever they may roam would further increase U.S. responsibility. [Secs. 2(b) (1) (B); 102(2)] Effective regulation of fishing against nonconsenting nations throughout such a vast area would be difficult and, as provided for in S. 961, could require the resources of the Defense Department.

Because a U.S. extension of fishery jurisdiction would violate their rights under international law and could result in severe economic harm, many major fishing nations might not consent to U.S. jurisdiction. Iceland's recent declaration of a 200-nautical mile fishery zone provoked open defiance by fishermen of Great Britain who have received the protection of the Royal Navy when fishing within 200 miles of Iceland. As evidenced by the U.S. experience in South America, the fining and imprisonment of foreign fishermen is itself a serious provocation. Hence the risk of hostilities between U.S. Coast Guard or U.S. military forces and the fishing boats or military vessels of other nations could be substantial.

S. 961 could undermine the Law of the Sea Conference

Progress at the Law of the Sea Conference has been understandably slow given the breadth and complexity of the issues to be resolved. Nevertheless during the last session in Geneva, the Conference moved toward a "single negotiating text" which included a fisheries proposal compatible with S. 961. [Secs. 2(c) (5); 401]

It is the goal of the U.S. negotiators and the Conference as a whole to achieve a comprehensive agreement by bargaining simultaneously

on all major ocean rights. If the United States, an acknowledged leader and the greatest ocean user, abandons the Law of the Sea Conference as the appropriate means to secure a particular ocean interest, the fragile momentum of the Conference towards a "package deal" on ocean rights could be shattered.

S. 961 jeopardizes U.S. defense interests

Several ocean interests are crucial to U.S. national defense. It is vitally important that U.S. forces be able to navigate freely under, on and over the world's oceans. An indispensable part of U.S. strategic forces are constantly seaborne in the U.S. submarine fleet. U.S. conventional forces which have been forwardly stationed throughout the world must have the capability for deployment, resupply, and reinforcement via the oceans of the world.

In particular, U.S. ocean interests crucial to defense include: (1) a narrow definition of territorial seas from which U.S. forces could be excluded, i.e., a 12-mile limit, (2) maintenance of the principle of innocent passage of straits including the right of submerged transit, (3) unimpeded overflight rights on the high seas, (4) preservation of the right for certain underwater surveillance operations. Thus military mobility and flexibility is directly predicated on freedom of the seas.

If the United States acts unilaterally to protect a parochial ocean interest by imposing its will on the nations of the world, history and logic indicate that these same nations will retaliate by acting to protect their parochial ocean interests. The parochial ocean interests of other nations are not limited to fishing but include the full spectrum of ocean interests from military transit to seabed mining. Witness the proliferation of claims for larger territorial and hence navigational jurisdiction following the expansion of U.S. fishing jurisdiction in 1945 and 1960. Consistent with this historical pattern of escalating retaliation, Mexico, only six days after passage in the U.S. House of Representatives of legislation establishing a 200-mile fishing zone, declared a 200-mile economic zone. This economic zone included jurisdiction over ocean resources considerably beyond fisheries as well as jurisdiction over ship construction and operation.

It is this direct and inherent linkage among major ocean rights that greatly raises the risks to U.S. national security of enacting S. 961. [Secs. 2(c) (1) ; 2(c) (2)]

Progress is being made to relieve U.S. fishery problems

Since Senate consideration of S. 988 last year, recently negotiated bilateral and multilateral fishery agreements have made significant progress in fishery conservation along both the Atlantic and Pacific coasts. For example, in September 1975, a 23 percent reduction in overall catch quotas was negotiated within the International Commission for the Northwest Atlantic Fisheries in the coastal area from Maine to North Carolina. In the Pacific, the United States negotiated improved agreements with the Soviet Union as well as with Japan. These agreements resulted in sizable reductions in fishing quotas for certain overfished species such as rockfish, cod and pollock. All of these agreements are regularly reviewed and renegotiated.

Such continuing negotiations offer a direct and constructive means for conserving coastal fisheries, particularly since the bulk of foreign overfishing can be traced largely to a few major fishing nations. Thus, the United States is not waiting for a Law of the Sea treaty to remedy its fishery problems. [Sec. 2]

Delaying the effective date of S. 961 will not cure its adverse impact on U.S. ocean interests [Sec. 104]

The Committee amendment would make the effective date of the bill January 1, 1977. [Sec. 104] Given the slowness of the legislative process and the July 1, 1976, effective date in the companion House bill, [Sec. 104] the Committee amendment could delay establishment of the 200-mile fishing jurisdiction by only a matter of months. [Sec. 104] Such a short delay would be hardly significant to the Law of the Sea negotiations. [Secs. 104; 401] More importantly, a resort to unilateral action [Sec. 101] would have the same ramifications for international law and other U.S. ocean interests regardless of the precise date of enactment.

Conclusions

The U.S. coastal fishing problems deserve vigorous attention. [Sec. 2] But unilateral action [Sec. 101] which is contrary to international law and negotiating efforts and which risks national security and other U.S. ocean interests is not the most effective way to proceed for the nation as a whole. We believe that such a last resort is unnecessary and unwise at this time.

JOHN C. STENNIS.
STROM THURMOND.
JOHN G. TOWER.
DEWEY F. BARTLETT.

FISHERIES MANAGEMENT AND CONSERVATION ACT

NOVEMBER 18, 1975.—Ordered to be printed

Mr. SPARKMAN, from the Committee on Foreign Relations,
submitted the following

REPORT

together with

ADDITIONAL AND SUPPLEMENTAL VIEWS

[To accompany S. 961]

The Committee on Foreign Relations, to which was referred the bill (S. 961) to extend on an interim basis the jurisdiction of the United States over certain areas and fish in order to protect the domestic fishing industry, and for other purposes, having considered the same, reports unfavorably thereon and recommends that the bill do not pass.

PURPOSE

[Sec. 2(b)] The primary purposes of this legislation are: (a) to unilaterally extend U.S. fishery jurisdiction from 12 miles to 200 miles on an interim basis to protect the domestic fishing industry; (b) to extend U.S. control over anadromous fish (salmon) wherever they may range on the high seas; and (c) to establish a national fishery management program.

BACKGROUND

For centuries, high seas fisheries have grown under the internationally recognized principle of "freedom of the seas." Under this doctrine, most coastal nations have maintained relatively narrow territorial or jurisdictional zones beyond which fishermen have had largely unfettered rights to exploit fishery resources.

As long as fishing methods were primitive and fleets relatively small, most international fishing interests were adequately accommodated without threatening the actual supply of fish. However, the development of modern techniques and the absence of effective conservation measures have caused a number of nations to develop serious concerns about the survival of their local fishing grounds. Although there exist

a number of international conventions to conserve the living resources of the oceans, most of these agreements have proven ineffective in controlling the problem of over-exploitation. Consequently, more and more nations are extending their jurisdictions to preserve the fishery resources off their coasts. Since 1948, approximately 40 nations have unilaterally declared exclusive fisheries zones beyond the 12-mile limit.

The United States has historically recognized a 3-mile territorial sea and, in 1966, unilaterally declared a 9-mile contiguous zone of exclusive jurisdiction over fisheries (Public Law 89-658). At the present time, the federal government exercises jurisdiction in the zone between the 3 and 12-mile limits, while the states regulate fishing within the 3-mile territorial sea.

Since 1973, approximately 140 nations, through the United Nations Law of the Sea Conference, have been meeting in an attempt to reach an agreement governing all the various uses of the oceans and their resources, including fisheries and mineral jurisdiction, pollution control, and navigation rights. Progress at that Conference has been disappointingly slow, and there are serious doubts whether these negotiations can be completed by 1977.

The current U.S. fisheries negotiating position endorses a 200-mile coastal state "economic resource zone." This proposal would grant the coastal state effective regulatory and economic control over coastal species within a 200-mile zone, subject to international standards and review regarding conservation. Under the U.S. proposal, the coastal state would be permitted to reserve to its own vessels that portion of the allowable annual catch which they can harvest. The coastal state would also be expected to permit, for a reasonable fee, the taking of the remainder by foreign fishermen who have traditionally fished in that area. Any fishery regulations promulgated by coastal states for their "economic zones" could be challenged by other nations and made subject to compulsory dispute settlement or arbitration. Under the U.S. proposal, anadromous stocks (salmon) would be managed by the nation in whose streams and rivers they spawn. Highly migratory species, such as tuna, would be regulated by appropriate international agencies.

In the past, the U.S. Law of the Sea fisheries position has been unanimously supported by the U.S. fishery industry. However, in light of the fact that 14 U.S. coastal commercial fish species have been depleted in recent years, fishing interests along the Atlantic Coast and the Pacific Northwest are convinced that the Law of the Sea Conference will not provide them with timely relief from foreign fishing pressures. These interests along with various labor and environmental organizations are urging the passage of S. 961. On the other hand, the American tuna and shrimp industries which fish off the East and West Coasts of Latin America adamantly oppose this legislation.

EXECUTIVE BRANCH VIEWS

The executive branch strongly opposes any unilateral extension of U.S. jurisdiction over fisheries on an interim or any other basis. The Administration's basic position was set forth by Secretary Kissinger in a speech concerning the problems facing the United Nations Third

Conference on the Law of the Sea, delivered to the American Bar Association's Annual Convention in Montreal on August 11, 1975:

The urgency of the problem is illustrated by disturbing developments which continue to crowd upon us. Most prominent is the problem of fisheries.

The United States cannot indefinitely accept unregulated and indiscriminate foreign fishing off its coasts. Many fish stocks have been brought close to extinction by foreign over-fishing. We have recently concluded agreements with the Soviet Union, Japan, and Poland which will limit their catch and we have a long and successful history of conservation agreements with Canada. But much more needs to be done.

Many within Congress are urging us to solve this problem unilaterally. A bill to establish a 200-mile fishing zone passed the Senate last year; a new one is currently before the House.

The Administration shares the concern which has led to such proposals. But unilateral action is both extremely dangerous and incompatible with the thrust of the negotiations described here. The United States has consistently resisted the unilateral claims of other nations, and others will almost certainly resist ours. Unilateral legislation on our part would almost surely prompt others to assert extreme claims of their own. Our ability to negotiate an acceptable international consensus on the economic zone will be jeopardized. If every state proclaims its own rules of law and seeks to impose them on others, the very basis of international law will be shaken, ultimately to our own detriment.

Some of the primary arguments against the passage of S. 961 set forth by the Administration witnesses during the Subcommittee hearings are as follows:

The United States' fisheries concerns can best be met in the context of international agreements. The President, in a message delivered to the September 1975 meeting of the International Commission for the Northwest Atlantic Fisheries (ICNAF), pledged "the full support of the United States to sound fisheries management and conservation practices, based on scientific evidence and implemented within the framework of internationally negotiated agreements." As evidence that such agreements can be attained, the Administration points out that the 1975 ICNAF agreement covering an area from Maine to North Carolina will reduce the overall 1976 fishing quotas by 23 percent.

Unilateral extensions of fisheries jurisdiction have, in the past, led to or encouraged more extreme jurisdictional claims. The Administration believes that such claims would have an adverse impact on a broad range of U.S. oceans interests including commercial navigation (affecting vital energy needs) and national security (requiring naval mobility for our general purpose and strategic deterrent forces).

A unilateral extension of United States fisheries jurisdiction could seriously injure important United States tuna and distant water shrimp fishermen who operate within 200 miles of other nations. The value of tuna landings alone by U.S. fisheries off foreign shores exceeds \$138 million per year. The Administration believes that such a uni-

lateral extension could increase the likelihood of disputes with the states off whose coasts those fisheries are conducted.

Enforcement of a unilateral 200-mile United States fisheries claim against the Soviet Union and other nations fishing off our coasts could pose a risk of confrontation or retaliation against United States economic interests which could not be solved by negotiation.

In order to implement a satisfactory enforcement plan, the Coast Guard estimates that a minimum expenditure of \$63.2 million in acquisition and reactivation costs and \$47.2 million in annual operating funds (based on 1975 fiscal dollars) would be required.

Unilateral claims might make it far more difficult to conclude a satisfactory Law of the Sea Treaty involving a broad range of U.S. oceans and foreign relations interests. The likely outcome of such a treaty—which the U.S. supports—is the establishment of a 200-mile economic zone in which our fisheries and other oceans interests are protected. Accordingly, the Administration believes unilateral action could seriously jeopardize international recognition of precisely that which it is intended to achieve.

It is the concern of the State Department that a unilateral claim would be a serious setback to the development of international legal institutions and the rule of law in the oceans, since it is generally agreed that a unilateral extension of U.S. fisheries jurisdiction to 200 miles would be inconsistent with existing international law.

CONGRESSIONAL ACTION

On December 11, 1974, the Senate by a vote of 68 to 27 passed S. 988, the Emergency Marine and Fisheries Protection Act of 1974, which extended U.S. jurisdiction over fishing from 12 to 200 miles. Although the House Merchant Marine Committee held extensive hearings during the 93rd Congress, it failed to report a similar bill (H.R. 8665).

During the 94th Congress, on October 7, 1975, the Senate Commerce Committee favorably reported S. 961, the Fisheries Management and Conservation Act. The bill was referred to the Foreign Relations Committee for 21 days of Senate sessions.

On October 9, 1975, the House passed H.R. 200, the Marine Fisheries Conservation Act of 1975, by a vote of 208 to 101. This bill, although different from S. 961, extends on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry.

On October 31, 1975, the Subcommittee on Oceans and International Environment of the Foreign Relations Committee held a public hearing on S. 961. At that time, testimony in support of the bill was presented by Senator Warren G. Magnuson (D. Wash.) and Representatives Gerry Studds (D. Mass.), Joel Pritchard (R. Wash.), and Don Young (R. Alaska).

Testimony in opposition to the bill was delivered by Senator Mike Gravel (D. Alaska); Representative Paul N. McCloskey (R. Calif.); Carlyle E. Maw, Under Secretary of State for Security Assistance; and John Norton Moore, Chairman, NSC Inter-Agency Task Force on the Law of the Sea and Deputy Special Representative of the President for the Law of the Sea Conference.

On October 13, 1975, the Foreign Relations Committee met to consider S. 961 in an open session. At that time, the Committee adopted by a vote of 7 to 6 a motion to report S. 961 adversely. Those voting aye were Senators McGee, Humphrey, Clark, Javits, Scott of Pennsylvania, Percy, and Griffin. Those voting nay were Senators Mansfield, Symington, Pell, McGovern, Biden, and Pearson.

COMMITTEE COMMENTS AND RECOMMENDATIONS

After thoroughly considering all the testimony presented on this issue, the Committee voted (7 to 6) to report S. 961 unfavorably to the Senate. Although sympathetic with the concerns of the sponsors of S. 961 for the welfare of the U.S. coastal fishermen, the majority of the Committee believes that the best protection for their livelihoods and the most effective long-term solution to our fishery problems is a timely ocean law treaty.

The Committee was of the opinion that to adopt S. 961 at this time would be inconsistent with the spirit of existing U.S. international legal obligations, particularly the 1958 Convention on the High Seas which specifically identifies freedom of fishing as an essential element of the overall high seas freedoms. Forty-six nations have signed this Convention and the United States, since 1966, has consistently opposed all other unilateral claims on the basis that they are violations of international law. The Committee believes that the drastic reversal of our position called for in S. 961 might seriously subvert U.S. credibility on all future ocean issues and negotiations.

Specifically, the Committee is concerned that S. 961 might undermine the current efforts of the Third United Nations Law of the Sea Conference to reach a comprehensive multilateral agreement on these and other marine problems. The third substantive session of this Conference is scheduled to meet next March and April and hopes to complete its work on this treaty by the end of 1977. If the Conference is permitted to complete its task, there is strong indication that a 200-mile economic zone will be established which will fully protect U.S. coastal fishery interests. Should the Conference fail, there will be more than enough time to take unilateral action to protect our coastal resources. Therefore, the Committee recommends that the Senate not pass S. 961 at this time.

MAJOR PROVISIONS OF S. 961

Section 101 extends U.S. fishery jurisdiction from 12 miles to 200 miles over all coastal species. **[Sec. 101]** This section also gives the U.S. management authority over anadromous species (salmon) throughout their migratory range except within the territorial waters or contiguous zone of another nation. **[Sec. 102(2)]**

Section 102 permits foreign fishermen, who have traditionally fished in U.S. waters, to catch stocks which are not fully exploited by U.S. fishermen. **[Sec. 201]** It provides that this catch shall not exceed the optimum yield for such stocks. **[Sec. 201(d)]** and limits this right to those foreign fishermen whose countries provide reciprocal rights to U.S. fishermen. **[Sec. 201(b)]**

Section 103 authorizes the Secretary of State to enter into bilateral and multilateral agreements to carry out the purposes of this bill. [Sec. 202] It directs the Secretary of State to review existing agreements and to initiate negotiations to revise those provisions in existing agreements inconsistent with this bill. [Sec. 202]

Section 104 provides that the jurisdictional sections of this bill would expire, and cease to be of any legal effect, on the date that a Law of the Sea Treaty (or other comprehensive treaty, convention, or agreement with respect to fishery jurisdiction, which the United States has signed or is a party to) comes into force or is provisionally applied by the United States. [Sec. 104]

Section 201 sets forth the national standards for fishery management and conservation. [Sec. 301] These apply to management and conservation measures affecting fishing in the fishery conservation zone, [Sec. 102] for anadromous species [Sec. 102(2)] and for Continental Shelf fishery resources. [Sec. 102(3)]

Section 202 establishes seven Regional Fishery Management Councils [Sec. 302] which are charged with the responsibility of preparing management plans and recommending management regulations to the Secretary for fisheries in the various regions of the country. [Secs. 302; 303]

Section 204 establishes an appellate body, theoretically comparable to the judicial branch, the Fishery Management Review Board. The purpose of this Board is to provide an independent review of disputes (1) which may arise between the individual Councils and the Secretary and (2) relating to the application of management regulations, issuance or denial of licenses, and so on. [Section not incorporated into Public Law 94-265]

Section 304 authorizes \$22 million annually for 2¼ fiscal years for the Department of Commerce to carry out this bill. This section also authorizes \$13 million annually for 2¼ fiscal years for the Department in which the Coast Guard is operating to carry out the enforcement provisions of this bill. [Sec. 406]

ESTIMATED COSTS

Pursuant to section 252 of the Legislative Reorganization Act of 1970, the cost of this Act for which appropriations are authorized will be as follows:

(In thousands)

	Fiscal year 1976	Transitional quarter	Fiscal year 1977
To the Secretary of Commerce.....	\$22,000	\$5,500	\$22,000
To the Secretary of the Department in which the Coast Guard is operating..	13,000	3,250	13,000

However, it should be noted that in order to implement a satisfactory enforcement plan envisioned by this bill, [Sec. 311] the Coast Guard estimates that a minimum expenditure of \$63.2 million in acquisition and reactivation costs and \$47.2 million in annual operating funds (based on 1975 fiscal dollars) would be required.

ADDITIONAL VIEWS

As a New England coastal state Senator resolutely committed to looking after the well-being of the United States coastal fisherman, I believe it particularly necessary to present these additional views strongly supporting the passage of S. 961.

For most of my Senate career, I have closely followed and participated in the development of U.S. ocean policies and, particularly, the preparations aimed at negotiating an international legal agreement governing the myriad uses of the oceans. As a Senate advisor to the U.S. Delegation to the preparatory and substantive sessions of the Third United Nations Law of the Sea Conference, I have had an opportunity to discuss the progress and probability of success of this Conference with both U.S. and foreign diplomats.

As do most of the sponsors of S. 961, I believe that, ideally, a multilateral agreement is the best solution to the numerous problems and conflicts associated with ocean space. In this connection, I am gratified that a substantial consensus has been achieved in the Conference for the establishment of a 200-mile economic zone. Under the comprehensive approach being taken in the Conference, agreement on an economic zone is being held up by disagreements in other areas, particularly the question of deep sea mining. However, it would be naive to assume that the only tumbling block to the conclusion of a multilateral treaty on the Law of the Sea is the negotiation of a regime and machinery applicable to the exploration and exploitation of deep seabed resources. The Conference has become ensnarled in ideologically-based inflexibility. It has become one of the central forums for the promotion of the Third World's "new economic order." Consequently, it is highly doubtful whether sufficient political will exists which can successfully overcome these difficulties and complete the negotiations on a comprehensive basis at an early date. In light of the uncertainty of the outcome of the Conference, it would be folly for the United States to ignore its vital national interests and to permit the **further depletion** of its coastal fishery resources. [Sec. 2]

There is no doubt the problem is acute. The fishery resources off our coasts have been grievously overexploited by massive foreign fishing activities. The volume of fish taken off the U.S. coast has increased dramatically from approximately 4.4 billion pounds in 1948 to 11.6 billion pounds in 1973. Throughout this 25-year time span, the landings of U.S. vessels have remained virtually constant while the foreign catch in U.S. coastal waters increased to an annual level of 7.9 billion pounds, a figure representing nearly 70 percent of the commercial U.S. coastal fish harvest.

In the same 25-year period, consumption of fish products in the United States has more than doubled, from 3.1 billion pounds in 1948 to 7 billion pounds in 1973. Under existing growth patterns, this figure could increase by an additional 3 billion pounds by 1985. Nearly the entire growth in U.S. fish consumption has been supplied by imports

that are often harvested in U.S. coastal waters by foreign fishing fleets, processed in the home port of the foreign fishing vessel, and exported for sale to the United States.

Today, the United States imports over 60 percent of its fish products needs. In 1974, the U.S. balance of trade deficit in fishery products alone amounted to nearly \$1.5 billion. It has been estimated that if imports of foreign fisheries products were replaced by domestic production, the additional economic impact on the U.S. economy would approach \$3 billion and result in an increase of 200,000 man-years in employment.

As a result of virtually unrestrained harvesting of U.S. coastal fishery resources, particularly by large-scale foreign fishing fleet operations, at least 14 fish species of interest to U.S. fishermen have been overfished and the continued economic viability of others has been threatened. These statistics dramatize the importance and significance of fishery resources to the United States and indicate that positive action is necessary to protect and conserve these resources. [Sec. 2]

In New England, the problem is particularly acute. Since the early 1960s foreign fishing has shrunk the overall fish biomass in the North-west Atlantic by 50 percent. The National Marine Fisheries Service indicates that Atlantic haddock, herring, menhaden, yellowtail flounder and halibut have been severely depleted, some to the point where they may never recover. Although the United States is party to a large number of international fishery conservation conventions, these agreements are and will continue to be woefully inadequate in containing or preventing overexploitation. Fundamental defects in enforcement, data gathering, and the protection of single species weaken all these agreements.

I would particularly like to emphasize the enforcement problem which S. 961 is intended to correct. [Sec. 2] Under the International Convention for the North Atlantic Fisheries (ICNAF), the United States can board foreign vessels but cannot take any punitive action in the event of violation. Such action is reserved to the flag states of the offending vessels. The following statistics on recent violations, provided by the National Marine Fisheries Service illustrate the seriousness of the problem.

- In 1974 U.S. agents boarded 11 of 14 West German trawlers in one ICNAF area and discovered that the German herring quota for that area had been exceeded by 40%.
- In 1974 U.S. agents boarded 6 of 8 U.K. trawlers on Georges Bank and discovered that the vessels had been fishing for haddock in spite of the fact that ICNAF granted no haddock quotas for 1974 other than for allowable incidental catch. Nets with undersize mesh were also being used by the vessels.
- In 1974, the U.S. accused Spain of exceeding its cod quota on Georges Bank and for taking haddock contrary to ICNAF regulations.
- From Jan. to April of 1975, boardings and aerial surveillance of Soviet mackeral trawlers off southern New England indicated that the USSR was exceeding its 1975 mackeral quota by an estimated 70%.

It has been estimated that U.S. coastal waters contain upward of 20 percent of the world's living resources. Positive U.S. action, embodied in S. 961, to protect and conserve [Secs. 2; 101; 102] these resources pending an international settlement [Sec. 401] on the question of coastal state jurisdiction over fishery resources will not only protect these resources for the United States but also for the world community at large. [Sec. 2]

Administration witnesses stated that the United States has consistently resisted all unilateral claims in the oceans and that S. 961 will be a violation of international law. They seem to have forgotten that, in 1966, the United States established a 12-mile fishery jurisdiction limit by unilateral action—Public Law 89-658. This legislation was not opposed by the executive branch because it was consistent with international practice at the time. But the 12-mile limit is no longer the definitive rule on fishery jurisdiction, in excess of 12 miles. Moreover, a majority of nations at the Law of the Sea Conference have stated their support for a coastal 200-mile economic resource zone which would include jurisdiction over fishery resources. This has all occurred since four treaties on law of the sea, which did not include a limit for fishery jurisdiction, were concluded in 1958.

All told, my view is that it is in our best interests to adopt the emergency interim measures [Sec. 401] contained in S. 961 designed to regulate and protect the fishery stocks within 200 miles of our coasts. [Secs. 2; 101; 102]

In conclusion, it should be noted and emphasized that the testimony received by the Foreign Relations Committee indicates that the provisions of S. 961 are totally consistent with the current fishery goals of the United States at the Law of the Sea Conference and are meant to be interim only. [Sec. 2(b) (5); 401] Sections of this bill specifically state that if the Law of the Sea negotiations produce an acceptable agreement which is ratified by the Senate, this legislation will be preempted. [Sec. 401] Consequently, I strongly urge my fellow Senators to vote for the passage of S. 961.

CLAIBORNE PELL.

SUPPLEMENTAL VIEWS

The bill, S. 961, was referred to the Committee on Foreign Relations for an assessment of its potential implications on our foreign relations. While we are familiar with some of the other arguments surrounding S. 961, we shall confine ourselves here to its foreign relations implications.

It is not surprising that similar legislation was unfavorably reported earlier by this committee and by the House Committee on International Relations. If enacted, S. 961 would:

- Violate solemn international treaty obligations to which we are bound;
- Repudiate widely recognized principles of international law that have been acknowledged and invoked by our Government on numerous occasions;
- Provide a major precedent for unilateral action by other nations that could restrict our use of nearly one-third of the world's oceans;
- Endanger success of the Third United Nations' Law of the Sea Conference which will be attended by more than 140 nations when it reconvenes in New York next March to seek a negotiated solution for the very problems this legislation tries to address; and
- Increase the chances of a major confrontation with the Soviet Union, Japan, or other nations endeavoring to protect their access to internationally recognized and protected high seas.

We share the concern of sponsors of S. 961 that a solution must be found for conservation of ocean resources. Indeed, we believe with them that the proposed 200-mile "fishery conservation zone" [Sec. 101] is an important part of that solution. However, we believe it is absolutely *essential* that such a solution be achieved through international agreement rather than by unilateral action.

One of the ironies of this bill is that its implementation would threaten the success of an international conference which has already agreed in principle on the need for revision of international law to permit establishment by coastal States of a 200-mile "exclusive economic zone" for the purpose of conserving and managing natural resources.

S. 961 VIOLATES GENEVA CONVENTIONS

The First United Nations Law of the Sea Conference met in Geneva in 1958 to attempt to codify existing rules of international oceans law. It produced four conventions, each of which was subsequently ratified by the resident of the United States with the advice and consent of the Senate.

One of those treaties was the *Geneva Convention on the High Seas*, which provided in part:

Article 1

The term "high seas" means all parts of the sea that are not included in the territorial sea or in the internal waters of a State.

Article 2

The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas . . . comprises, *inter alia*, both for coastal and non-coastal States: . . . Freedom of fishing.

Although participants at the 1958 Geneva Conference were unable to agree upon precise limits of the territorial sea, "the main differences on the breadth of the territorial sea were limited at the time to disagreement as to what limit, not exceeding 12 miles, was the appropriate one."¹ This is evidenced by Article 24 of the *Convention on the Territorial Sea and the Contiguous Zone*, which provided that a coastal State could proclaim a "contiguous zone"—a part of the high seas contiguous to a nation's territorial sea—but that such a zone "may not extend beyond twelve miles from the baseline from which the breadth of the territorial sea is measured."²

At the Second U.N. Law of the Sea Conference, in 1960, a proposal by the United States and Canada which would have set a limit of six miles to the territorial sea with a contiguous zone of another six miles for a fishing zone, came within one vote of receiving the necessary two-thirds' majority needed for passage in Plenary Sessions.³

The International Law Commission of the United Nations has also supported this principle, expressing the opinion that international law does not permit an extension of the territorial sea beyond twelve miles.⁴ Even the uniform "negotiating text" produced by the last session of the current U.N. Law of the Sea Conference supports limiting the territorial sea to "a limit not extending 12 nautical miles."⁵

Although some countries—fewer than fifteen—have made unilateral claims to a 200 mile territorial or fisheries zone, the United States has consistently sided with the large majority of coastal states (over 90 in 1975) claiming a fisheries jurisdiction of 12 miles or less.

There is no justification under international law for the United States to unilaterally declare—as S. 961 would have us do—a 200 mile "fishery conservation zone." [Sec. 101] In the absence of such authority, either through a new Law of the Sea treaty or through other international agreement, for the United States to unilaterally impede foreign fishing on the high seas would flagrantly violate our obligations under articles 1 and 2 of the Geneva *Convention on the High Seas*. Any move to carry out the enforcement provisions of S. 961

¹ International Court of Justice, *Fisheries Jurisdiction Case (United Kingdom v. Iceland)*, Merits Judgment of 25 July 1974, paragraph 51.

² Committee on Commerce, U.S. Senate, *Treaties and Other International Agreements on Fisheries, Oceanographic Resources, and Wildlife to Which the United States is Party* (Washington, U.S. Govt. Printing Office, December 31, 1974) p. 298.

³ Library of Congress, Legislative Reference Service, "The Territorial Sea . . ." (Washington, D.C., Library of Congress, Feb. 18, 1966), pp. 12-13.

⁴ *Ibid.* p. 14.

⁵ Committee on Foreign Relations, U.S. Senate, "Law of the Sea," *Hearings*, May 22, 1975, Appendix, part II, article 2, p. 60.

[Sec. 311]—which call for the boarding of foreign vessels within 200 miles of our coast. **[Sec. 311(b) (1) (B)]** and for the seizure of all fish and fishing gear found thereon **[Sec. 311(b) (1) (C)]** if said vessel is found in violation of this act—would further explicitly violate article 22 of the 1958 Geneva Convention on the High Seas, which provides in part:

Article 22

Except where acts of interference derive from powers conferred by treaty, a warship which encounters a foreign merchant ship on the high seas is not justified in boarding her unless there is reasonable ground for suspecting:

- (a) That the ship is engaged in piracy; or
- (b) That the ship is engaged in the slave trade; or
- (c) That, though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality as the warship.

Clearly this article prohibits the measures contemplated for enforcement of S. 961 **[Sec. 311]**

A LEGAL ALTERNATIVE

The 1958 Geneva Conference recognized the dangers of overexploitation of ocean resources, and provided legal authority for unilateral actions by coastal States to conserve those resources. Article 7 of the *Convention on Fishing and Conservation of the Living Resources of the High Seas*, provides in part:

Article 7

1. Having regard to the provisions of paragraph 1 of article 6, any coastal State may, with a view to the maintenance of the productivity of the living resources of the sea, adopt unilateral measures of conservation appropriate to any stock of fish or other marine resources in any area of the high seas adjacent to its territorial sea, provided that negotiations to that effect with the other States concerned have not led to an agreement within six months.

2. The measures which the coastal State adopts under the previous paragraph shall be valid as to other States only if the following requirements are fulfilled:

- (c) That such measures do not discriminate in form or in fact against foreign fishermen.

Unfortunately, section 102 of S. 961 clearly does “discriminate in form or fact against foreign fishermen,” and therefore is not authorized under international law.

CAN CONFLICTING TREATIES BE TERMINATED?

The sponsors of this bill believe they have adequately provided for honoring our existing international treaty obligations by including section 103(b), **[Secs. 202(a) ; 202(b) ; 202(c)]** which provides:

(b) *Review*.—The Secretary of State shall immediately review, in cooperation with the Secretary [of Commerce] each treaty, convention, and other international agreement to determine whether the provisions of such agreement are consistent with the purposes, policies, and provisions of this Act. If any provision or terms of any such agreement are not so consistent, the Secretary of State shall initiate negotiations to amend or terminate such agreements by not later than September 30, 1976.

Perhaps such a provision [Secs. 202(a) ; 202(b) ; 202(c)] would be meaningful in the case of some of our bilateral fishery agreements, but other agreements are explicitly binding for a minimum period of time (e.g., the *Agreement Concerning Cooperation in Fisheries* signed with South Korea on November 24, 1972, is to remain in force until December 12, 1977) ; and others require advanced notice of as much as two years before they can be terminated (e.g., *Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea*, signed with Canada on March 2, 1953).

More importantly, the U.S. Secretary of State can hardly insure that the 1958 Geneva *Convention on the High Seas* be either renegotiated or terminated by September 30, 1976. One purpose of the Third U.N. Law of the Sea Conference is to renegotiate parts of those conventions, and agreement on a new treaty is expected within the next two or three years (assuming unilateral U.S. action do not delay or destroy the Conference). However, until international agreement is reached on a new treaty, the existing treaties remain a valid source of international law in their respective areas.

OPINION OF THE INTERNATIONAL COURT OF JUSTICE

It is true that the United States did not ratify the *Optional Protocol of Signature Concerning the Compulsory Settlement of Disputes* adopted by many of the participants at the 1958 Geneva Conference ; however, we do have an obligation to comply with international law, and ICJ opinions are generally good evidence of existing international law. Furthermore, we have formally urged many other States to submit their claims of a 200 mile jurisdiction to the International Court of Justice. Even if a particular decision is not binding on the U.S., it is useful and important to take note of ICJ opinions.

Of particular interest, I suggest, is the ICJ decision last year in the fisheries jurisdiction case of *United Kingdom v. Iceland*. The following excerpts provide insight as to the Court's possible view of a unilateral American claim such as that proposed in S. 961 :

Two concepts have crystallized as customary law in recent years arising out of the general consensus revealed at that [1958] Conference. The first is the concept of the fishery zone, the area in which a State may claim exclusive fishery jurisdiction independently of its territorial sea : the extension of that fishery zone up to a 12-mile limit from the baselines appears now to be generally accepted. The second is the con-

cept of preferential rights of fishing in adjacent waters in favour of the coastal State in a situation of special dependence on its coastal fisheries . . .

The contemporary practice of States leads to the conclusion that the preferential rights of the coastal State in a special situation are to be implemented by agreement between the States concerned, either bilateral or multilateral, and, in case of disagreement, through the means for the peaceful settlement of disputes provided for in Article 33 of the Charter of the United Nations. . . .

The concept of preferential rights is not compatible with the exclusion of all fishing activities of other States. A coastal State entitled to preferential rights is not free, unilaterally and according to its own uncontrolled discretion, to determine the extent of those rights. . . .

[T]he Government of Iceland is not in law entitled unilaterally to exclude United Kingdom fishing vessels from sea areas. . . . or unilaterally to impose restrictions on their activities in such areas. . . .

It is implicit in the concept of preferential rights that negotiations are required. . . . The obligation to negotiate thus flows from the very nature of the respective rights of the Parties; to direct them to negotiate is therefore a proper exercise of the judicial function in this case. This also corresponds to the Principles and provisions of the Charter of the United Nations concerning peaceful settlement of disputes. . . .

The task before them will be to conduct their negotiations on the basis that each must in good faith pay reasonable regard to the legal rights of the other in the waters around Iceland outside the 12-mile limit, thus bringing about an equitable apportionment of the fishing resources based on the facts of the particular situation, and having regard to the interests of other States which have established fishing rights in the area.

This reasoning led the International Court of Justice, by a vote of ten to four, to find:

. . . that the Regulations concerning the Fishery Limits off Iceland . . . constituting a unilateral extension of the exclusive fishing rights of Iceland to 50 nautical miles from the baseline specified therein are not opposable to the Government of the United Kingdom.

We are aware of no significant reasons for assuming the ICJ would not take a similarly dim view of a unilateral U.S. claim to a 200 mile fisheries conservation zone. [Sec. 101]

CONFERENCE CONSENSUS DOES NOT CHANGE LAW

In his testimony before the Foreign Relations Committee on October 31, 1975, the distinguished sponsor of this bill, Senator Magnuson, argued:

There is a consensus within the [Law of the Sea] Conference for a 200-mile economic zone. That consensus, I believe, legitimizes the action we propose in S. 961. [Sec. 101]

While the Senator is correct in noting the existence of a general consensus—articles 45 to 61 of Part I of the single negotiating text provide for such an economic zone—We believe he is in error in concluding that such a consensus legitimizes unilateral U.S. action as proposed in S. 961. [Sec. 101]

In the first place, we must realize what a “single negotiating text” is. In his testimony before our committee on May 22 of this year, Deputy Assistant Secretary of State for Oceans and Fisheries Affairs Thomas A. Clingan explained:

The single negotiating text must be viewed as a procedural device providing the basis for further negotiations, and is not a negotiated text or an agreed compromise. . . . Thus, with respect to fisheries as well as other issues, the text must be viewed as not affecting any nation’s national position, and amendable in future work sessions.

The decision of most States to accept a 200-mile exclusive economic zone is predicated upon simultaneous agreement on other issues under consideration by the Conference, and should the Conference fail to reach agreement on those other issues some participants might reassess their positions on the economic zone. Until a final agreement is actually reached by the Conference, its proceedings do not alter the presently accepted international law of the sea.

This principle was recognized by the International Court of Justice in the 1974 case of *United Kingdom v. Iceland*, when the report of judgment noted:

The Court is . . . aware of present endeavours, pursued under the auspices of the United Nations, to achieve in a third Conference on the Law of the Sea the further codification and progressive development of this branch of the law, as it is of various proposals and preparatory documents produced in this framework, which must be regarded as manifestations of the views and opinions of individual States and as vehicles of their aspirations, rather than as expressing principles of existing law. The very fact of convening the third Conference on the Law of the Sea evidences a manifest desire on the part of all States to proceed to the codification of that law on a universal basis, including the question of fisheries and conservation of the living resources of the sea.⁶

In a dissenting opinion to the same case, Judge Gros similarly argued:

Articles 1 and 2 of the Convention on the High Seas and Article 24 of the Convention on the Territorial Sea are provisions which are in force, and since the only argument relied on to exclude them is that they are outdated, no reply on this point is needed; the calling of a third codifying Conference

⁶ I.C.J., *United Kingdom v. Iceland*, paragraph 53.

in July 1974 amply demonstrates that certain procedures, and agreement, are necessary to replace codifying texts. Until different texts have been regularly adopted, the law of the sea is recorded in the texts in force.⁷

A more recent opinion is provided by former ICJ Judge Philip C. Jessup, who on September 30, 1975, wrote:

It is of course true that at the United Nations Law of the Sea Conferences, there has been much support for agreement on a 200 mile economic zone, but it is generally recognized that this is a proposal for new law which can be valid only on the basis of general agreement through treaty.⁸

S. 961 REPUDIATES LONGSTANDING U.S. POSITION

The United States Government has consistently held that unilateral declarations of territorial or fisheries jurisdiction beyond the twelve mile limit are invalid under international law. For example, in April 1970, when Canada sought to establish pollution zones in Arctic waters up to 100 miles off its shore above the 60th parallel—an area within which Canada would assert the right to control all shipping, to prescribe standards of vessel construction, and so forth—the United States immediately protested:

International law provides no basis for these proposed unilateral extensions of jurisdiction on the high seas, and the United States can neither accept nor acquiesce in the assertion of such jurisdiction.

We are concerned that this action by Canada if not opposed by us, would be taken as precedent in other parts of the world for other unilateral infringements on the freedom of the seas. If Canada had the right to claim and exercise exclusive pollution and resources jurisdiction on the high seas, other countries could assert the right to exercise jurisdiction for other purposes, some reasonable and some not, but all equally invalid according to international law. Merchant shipping would be severely restricted, and naval mobility would be seriously jeopardized. The potential for serious international dispute and conflict is obvious.

The United States has long sought international solutions rather than national approaches to problems involving the high seas. . . .

If, however, the Canadian Government is unwilling to await international agreement, we have urged that in the interest of avoiding a continuing dispute and undermining our efforts to achieve international agreement, that we submit our differences regarding pollution and exclusive fisheries jurisdiction beyond 12 miles to the International Court

⁷ Quoted in *Congressional Record*, October 9, 1975, p. H.9926.

⁸ Letter from Philip C. Jessup to Senator Gravel, dated September 30, 1975.

of Justice, the forum where disputes of this nature should rightfully be settled. . . .

With respect to the 12-mile limit on the territorial sea, we have publicly indicated our willingness to accept such a limit, but only as part of an agreed international treaty also providing for freedom of passage through and over international straits.⁹

Similarly, when Canada later that same year announced the establishment of fisheries closing lines extending unilaterally Canadian jurisdiction over areas traditionally regarded as the high seas, the United States responded:

The United States regards this unilateral act as totally without foundation in international law. The United States firmly opposes such unilateral extensions of jurisdiction and believes that outstanding issues concerning the oceans can only be resolved by effective international action.¹⁰

In view of this traditional, and I believe proper, U.S. position on such unilateral claims, it is difficult to conclude that other nations would willingly accept such a unilateral declaration as provided by S. 961. [Sec. 101] In the event that a confrontation should arise and be brought before the International Court of Justice—in our own words, “the forum where disputes of this nature should rightfully be settled”—we would find ourselves in an almost totally indefensible position, convicted by our own assertions.

A DELAY IN IMPLEMENTATION IS NO REMEDY

It was suggested during Committee consideration of S. 961 that perhaps the bill could be amended to delay implementation for several months in order to give the Law of the Sea conference a chance to reach agreement. [Secs. 104; 312]

This is clearly not an acceptable solution to the problems posed by this legislation, because the fundamental issue involved is whether or not individual States have a unilateral right to regulate the activities of other States on the high seas. The position of the U.S. until now has been that no such right exists—a position shared by the large majority of other nations and by the International Court of Justice. Should the United States now declare the existence of such a right—even if we announce that we will not invoke that right for a few months, or even several years—other States will be free to cite that U.S. declaration to support unilateral claims of their own. There is no reason to believe that such claims would be limited to fisheries or economic zones, because once we have abrogated the guarantees of freedom of the seas contained in the 1958 *Geneva Convention on the High Seas*, we will hardly be in a position to claim their protection. It should be noted in this regard that the same article (article 2) in

⁹ U.S. Department of State, *Press Release*, No. 121, April 15, 1970.

¹⁰ U.S. Department of State, *Press Release*, No. 357, December 18, 1970.

the treaty which guarantees the right to freedom of fishing on the high seas also protects freedom of navigation and freedom of overflight.

DANGERS OF UNILATERAL ACTION

Supporters of S. 961 have argued that since it would extend U.S. jurisdiction on the high seas only in the limited area of fishery resources, it has no effect on existing rules dealing with navigation, vessel passage through straits, overflight, scientific research, deep seabed mining, etc. [Sec. 2(c) (1) ; 2(c) (2)]

Unfortunately, this bill does much more than simply extend our jurisdiction over ocean fisheries. This bill, if enacted, would provide a dangerous precedent to other States in support of the principle that unilateral declarations of control over the high seas are a proper means of problem solving. The United States is today concerned with preserving ocean resources. [Sec. 2] so it is proposed that we unilaterally claim the right to regulate fishing by foreign vessels up to 200 miles off our coast. [Sec. 101] in clear violation of articles 1 and 2 of the Geneva Convention on the High Seas.

Canada, on the other hand, is concerned about oil pollution. Should not Canada have an equal right to declare jurisdiction over oil tankers—including the right to prohibit them—up to 200 miles off its coast? For that matter, is there anything sacred about the figure 200 miles? Could not Canada just as easily claim jurisdiction of all of the oceans out to the half-way mark across the Atlantic?

The supporters of S. 961 have argued that action by the U.S. is justified because "the practice of numerous nations reflects support for a 12 mile territorial [sea] with a 200-mile fisheries zone,"¹¹ and they include as an appendix to the Commerce Committee report on this bill a list of 36 nations "which have unilaterally extended their exclusive fishery jurisdiction beyond 12 nautical miles."¹² One finds on this list 11 States which have declared an "exclusive fisheries jurisdiction" of 200 miles. What the Commerce Committee report does *not* indicate, however, is that 9 of these 11 States—Argentina, Brazil, Ecuador, El Salvador, Nicaragua, Panama, Peru, Sierra Leone, Somalia and Uruguay—have claimed not only a 200 mile *fishery* jurisdiction, but also a 200 mile *territorial sea*.

If the claim of 11 nations to a 200 mile fisheries zone can be the basis of unilateral action by the U.S., cannot the claim of 9 States to a 200 mile territorial sea provide equal justification for similar territorial claims by other States? It would seem wiser for the United States to remain on the side of the 91 other nations of the world that claim 12 miles or less as a fisheries zone. At this point it is perhaps worthwhile to recall the exchange which took place during Foreign Relations Committee hearings on the Law of the Sea between the distinguished chairman of the Subcommittee on Oceans and International Environment, Senator Pell; and the Chairman of the NSC Interagency Task Force on the Law of the Sea, Ambassador John Norton Moore:

¹¹ Committee on Commerce, U.S. Senate, "Magnuson Fisheries Management and Conservation Act." Report (Washington: U.S. Govt. Printing Office, October 7, 1975), p. 7.

¹² *Ibid.*, p. 66.

Senator PELL. The United States as the leading maritime, naval and air power cannot permit the 200-mile territorial sea to creep into being because wouldn't that reduce the amount of free transit space available to our Navy and planes, by almost a third?

Ambassador MOORE. Very definitely. There is about a third of the world's oceans that would be closed to navigation by a 200-mile territorial sea, and of course, the pragmatic impact is much greater because such a territorial sea would control all approaches to straits, all approaches to major oceans. There would be a total closure of the Mediterranean since it is overlapped in all parts by a 200-mile economic zone or territorial sea.¹³

There are, of course, other strategic and military implications of a widespread claim of a 200 mile territorial sea, to which we are certain the Armed Services Committee will give careful consideration. It should at least be clear that such a development is not in the interest of the United States.

Even without passage of S. 961, of course, there is a danger that more States will make claims to a 200 mile territorial sea. Hopefully, the success of the Third Law of the Sea Conference will strengthen our position in this regard. Until that Conference produces a new international agreement, however, it is very much in our interest to support the existing international law of the sea. So long as we do, we are justified in criticizing and refusing to recognize unilateral claims to control of the high seas by other States. Once we have surrendered the protection of those agreements and made a unilateral claim of high seas jurisdiction ourselves, however, we can hardly protest unilateral claims by others.

In a separate opinion by five judges of the International Court of Justice in the *United Kingdom v. Iceland* case, it was noted:

States submitting proposals for a 200-mile economic zone, for instance, which includes control and regulation of fishery resources in that area, would be in a somewhat inconsistent position if they opposed or protested against claims of other States for a similar extension.¹⁴

Should S. 961 be enacted, the United States might well find itself in the undesirable position of having to accept unilateral declarations to control of the high seas by numerous other States, or of being forced to oppose such claims with the only tool remaining once legal principles have vanished—military force.

In conclusion, we call to the attention of our colleagues the very perceptive opening remarks made by the distinguished chairman of our Subcommittee on Oceans and International Environment as he began hearings in May on the Law of the Sea:

¹³ Committee on Foreign Relations, "Law of the Sea," *Hearings*, p. 22.

¹⁴ *Congressional Record*, October 9, 1975, p. H.9925.

[I]n an interdependent world fraught with the chauvinistic claims of narrow nationalism and economic self-interest, the future of the oceans poses a real test to the spirit of international cooperation. If the nations of the world are unable to compromise their differences, reconcile conflicting national and international interests, and reach an agreement on the law of the sea, then the possibility of resolving other world problems is accordingly diminished. The recent Cod War and *Mayaguez* incident are examples of what the future holds, should this Conference fail.¹⁵

It is because we share the belief that international problems must be solved through multilateral and bilateral international negotiations, rather than by unilateral claims or force, that we strongly urge our colleagues to reject this bill.

ROBERT P. GRIFFIN.
GALE W. MCGEE.

¹⁵ Committee on Foreign Relations, "Law of the Sea," *Hearings*, p. 1.

MEMORANDUM TO THE SENATE
FOREIGN RELATIONS COMMITTEE

CONCERNING

S. 961

THE MAGNUSON MARINE FISHERIES
CONSERVATION AND MANAGEMENT ACT

PREPARED AT THE REQUEST OF
HON. WARREN G. MAGNUSON, *Chairman*
COMMITTEE ON COMMERCE
FOR THE USE OF THE
COMMITTEE ON COMMERCE



November 21, 1975

U.S. GOVERNMENT PRINTING OFFICE
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LETTER OF TRANSMITTAL

U.S. SENATE,
COMMITTEE ON COMMERCE,
November 21, 1975.

DEAR COLLEAGUE: On September 25, 1975, the Commerce Committee ordered S. 961, the Magnuson Marine Fisheries Conservation Act, favorably reported. S. 961, if enacted, would: (1) establish on an interim basis a 200 nautical mile fishery conservation zone off U.S. coasts [Secs. 101; 401]; (2) extend on an interim basis U.S. jurisdiction over anadromous species of fish spawned in U.S. waters throughout their migratory range [Secs. 102(2); 401]; and (3) create a national fishery management program for all fishery resources under U.S. jurisdiction. [Secs. 301; 302; 303; 304; 305]

The bill was then referred to Senate Foreign Relations Committee for not to exceed 21 legislative days. On October 31, the Subcommittee on Oceans and International Environment of the Foreign Relations Committee held a 1-day hearing on the bill. During the course of that hearing, Senator Mike Gravel submitted certain "Fact Sheets" discussing several issues raised by S. 961. Senator Claiborne Pell, Chairman of the Subcommittee, gave the Commerce Committee an opportunity to reply to these "Fact Sheets." For your information, the Reply Memorandum, together with various appendices, is contained herein.

The conclusions in this memorandum have neither been approved, disapproved, or considered by Committee members other than ourselves.

WARREN G. MAGNUSON,
Chairman, Committee on Commerce.
TED STEVENS,

Ranking Minority Member, Subcommittee on Oceans and Atmosphere.

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MEMORANDUM TO THE SENATE FOREIGN RELATIONS COMMITTEE CONCERNING S. 961, THE MAGNUSON FISHERIES MANAGEMENT AND CONSERVATION ACT

I. INTRODUCTION

This memorandum is offered in rebuttal to certain statements and "fact sheets" presented by Senator Mike Gravel to the Senate Foreign Relations Committee during the October 31 hearing on S. 961, the Magnuson Fisheries Management and Conservation Act.

S. 961, if enacted, would (*inter alia*): (1) establish, on an interim basis, a 200 nautical mile fishery conservation zone off U.S. coasts [Secs. 101, 401]; (2) extend, also on an interim basis, U.S. jurisdiction over anadromous species of fish (e.g. salmon) throughout their migration on the high seas beyond the 200-mile zone [Secs. 102(2); 401]; and (3) create a national fishery management program for all fishery resources under U.S. jurisdiction. [Secs. 301; 302; 303; 304; 305]

In summary, this memorandum will show that Senator Gravel has presented nothing more than arguments previously used to prevent passage of S. 961. Most of the "facts" are not facts at all, but subjective conclusions, often reached through faulty logic. As will become apparent, S. 961 is the best U.S. policy alternative available to end the overfishing of living resources off U.S. coasts. [Sec. 2]

II. FACT SHEET 1—STATUS OF U.S. FISHERIES

From the title of this paper, one would assume that it discusses the biological condition of all fish stocks found off U.S. shores. But it does not. Rather, the paper discusses only certain alleged achievements of two recent bilateral agreements covering Pacific Ocean fisheries between the United States and Japan and Russia, and the recent agreement in the multilateral International Commission for the Northwest Atlantic Fisheries (ICNAF). It does not discuss at all other agreements relating to fishing off U.S. shores, or mention the status of other fish stocks not subject to these agreements.

The proffered thesis is that "the state of our fisheries has been significantly improved through recent bilateral and multilateral international agreements" therefore S. 961 is unnecessary. However, the real "facts" indicate otherwise.

Before examining whether biological improvements will actually result from these three new agreements, a discussion of the general condition of fish stocks off U.S. shores is in order. The following table developed by the National Marine Fisheries Service is an accurate assessment of U.S. fisheries:

A partial list of species of interest to U.S. fisheries showing their present status¹

Potential for increased catch:

Pacific rock sole.
 Alaska herring.
 Northeast Pacific shrimp.
 Sea trouts.
 King mackerels.
 Mulletts.
 California anchovy.
 Blue crab.
 Rock crab.
 Jonah crab.
 Surf clam.
 Ocean quahog.
 Gulf of Mexico clupeids.
 Oysters.
 Hard clam.
 Calico scallop.
 Pacific salmon.
 Skipjack.

Fully utilized:

Atlantic mackerel.
 Red hake.
 Silver hake.
 Atlantic herring.
 Atlantic squid.
 Bering Sea cod.

King crab.
 Tanner crab.
 Pacific hake.
 Atlantic cod.
 Atlantic ocean perch.
 Bluefish
 Menhadens.
 American lobster.
 Gulf shrimps.
 Eastern Tropical Pacific Yellowfin tuna.

Overfished:

Yellowfin sole.
 Alaska pollock.
 Pacific ocean perch.
 Pacific halibut.
 Atlantic halibut.
 Bering Sea herring.
 Bering Sea shrimp.
 Haddock.
 Yellowfin flounder.
 California sardine.
 Pacific mackerel.
 Atlantic sea scallop.
 Northwest Atlantic shrimp.
 Atlantic bluefin tuna.

¹ Foreign fishing is not the cause of depletion of every stock. But stock depleted solely by U.S. overfishing are relatively few in number and are isolated cases because of rather constant U.S. catch levels during the last 25 years.

Source: Draft National Fisheries Plan, June 1975.

On the depleted condition of fish stocks and the urgency to protect these renewable resources, there is very little disagreement:

"I agree with the proponents of S. 961 that action must be taken now to halt the depletion of fish stocks off our coasts." (Honorable Carlyle E. Maw, Under Secretary of State for Security Assistance, October 31, 1975.)

"Reports from our scientists on the status of the [fish] stocks show serious overfishing on many of our most valuable species." (David H. Wallace, NOAA's Associate Administrator for Marine Resources, Hearings before the Senate Commerce Committee, June 6, 1975.)

"American fisheries face a crisis. We must act expeditiously to stop the loss of this resource—soon it will no longer be renewable." (Senator Mike Gravel, Hearings before the Senate Commerce Committee, December 6, 1973.)

Senator Gravel now appears to favor bilateral and multilateral international agreements, rather than legislative action, as the most effective solution to the undisputed problem of overfishing. He therefore states that "Fact Sheet 1" proves the effectiveness of such agreements. The "Fact Sheet" discusses alleged achievements from recent bilateral agreements with the two major fishing powers operating off U.S. coasts. However, the paper fails to provide the reader with the indispensable benchmark for evaluating any fishery conservation agreement—the maximum sustainable yield of the stocks involved. Nearly every species of fish subject to the Russian and Japanese bilateral agreements would still be fished at levels exceeding maximum sustainable yield. For example, the paper notes that the Japanese have agreed to a 27% reduction in their quota for Alaska pollock, down from 1.5 million metric tons (MT) to 1.1 MT. It does not say that the estimated sustainable yield for that fishery is 1.0 million metric tons, or that the Russians are also allowed to fish for an addi-

tional 210,000 metric tons of Alaska pollock, bringing the total agreed-to quota to 300,000 metric tons *over* the sustainable yield. It is estimated that fishing at this level would not allow the stock to recover and rebuild even to "intermediate" levels, let alone return to pre-fished levels. The agreements, in effect, institutionalize excessive fishing. The attached letter describing the status of stocks in the North Pacific, tells the story very clearly. (Appendix I)

In short, in these two agreements the Japanese and Russians have merely agreed to overfish less than they have before—they did *not* agree to end their overfishing in the North Pacific. But quotas aren't the only aspect of these agreements which should be examined. Their success must ultimately depend on accurate catch statistics being kept by the master of each Japanese and Soviet vessel fishing in the North Pacific. Such statistics may or may not reflect actual catch levels. Furthermore, the efficacy of these agreements also depends on enforcement by Japanese and Soviet, not U.S., officials. The conflict of interest inherent in this system raises doubt as to whether "the state of our fisheries has been significantly improved" by these agreements.

As Senator Gravel indicates, the United States fared much better in the recent ICNAF talks in Montreal. The new reduction in the overall quota is attributable in part to the intense political pressure applied to ICNAF nations by our Department of State and to the unprecedented message of restraint from President Ford. But there is little doubt that the determining factors were the growing likelihood that the U.S. Congress would soon vote on a 200-mile fishery limit, and the recognition by ICNAF nations that they had in fact overfished the resources. In discussing the ICNAF agreement, Senator Gravel once again fails to note the fact that overfishing still continues under its seemingly much-improved terms. The United States however had requested a 300,000 MT reduction in the ICNAF quota, but a reduction of only 200,000 was agreed to.

In the area of the ocean covered by the ICNAF agreement, fish stocks are closely interrelated. Consequently, even a zero quota for a depleted stock such as haddock or yellow-tail flounder will not protect the species. The new ICNAF quotas are thus no real protection to the most depleted stocks in the ICNAF area. As evidence of the decline of the haddock problem, in 1962 the U.S. catch of haddock was nearly 60,000 tons. This year the quota is zero, although the United States is allowed a by-catch of 6,000 tons. But a "biomass quota" does not solve the by-catch dilemma nor does it give direct protection to individual stocks. The attached National Marine Fisheries Service analysis summarizes the situation. (Appendix II)

But one of the real problems with ICNAF has been enforcement. Last year, for example boardings and aerial surveillance of Soviet vessels indicated that they had exceeded their mackerel quota by as much as 70%.

It is obvious that the above analysis of three recent international fishing agreements demonstrates again that such agreements have not, except in a very limited way, solved the major difficulties in U.S. coastal fisheries. Their ability to end such difficulties in the future must be considered doubtful given the present context of fishery jurisdiction. Dr. David Wallace, Associate Administrator of the National Oceanic and Atmospheric Administration and chief U.S. negotiator in ICNAF, recently commented on the future of ICNAF and other such arrangements in a speech delivered June 25, 1975:

Insofar as ICNAF is concerned, it is perhaps the most sophisticated of our international regimes. Yet despite some accomplishments, ICNAF has been unable to prevent serious overfishing in the Northwestern Atlantic Ocean, and it has been unable to resolve the serious conflicts among fishermen of the various nations. In the future, ICNAF and such other organizations will be even less able to cope with increasing numbers of entrants and increased fishing pressure, because they are (1) unable to ensure optimum production of the resource, (2) increasingly ineffective in allocating or controlling catch and effort, (3) incapable of resolving major issues among user groups, (4) unable to make the timely management decisions required to achieve conservation goals, (5) unable to assure full compliance with negotiated agreements, and (6) not constituted to deal with major social and economic considerations.

These criticisms go to the very heart of the argument that international agreements alone, without an extension of U.S. jurisdiction, will protect fisheries until a Law of the Sea treaty is concluded. Dr. Wallace's assessment deserves considerably more weight on this question than "Fact Sheet 1".

S. 961, on the other hand, will: (1) provide a clear jurisdictional basis for management [Secs. 101; 102]; (2) give U.S. fishermen preferential rights over coastal fish stocks [Secs. 201(d); 201(g); 302(h)(5); 303(a)(4)(B)]; (3) set a maximum limit for all fishing effort on a particular stock or biomass [Secs. 2(b)(4); 301(a)(1); 303(a)(3); 303(a)(4)]; (4) allow foreign fishing for the excess in any fishery [Secs. 201(d); 201(g); 303(a)(4)(8)]; allocate catch between foreign nations based on historical fishing practices [Sec. 201(e)]; (5) manage fisheries on an economic, social, biological and environmental basis [Secs. 2(b); 301]; (6) provide for U.S. surveillance and enforcement [Secs. 201; 311]; and (7) would make several other fundamental improvements in fishery management ground rules. [Secs. 2; 301]

Dr. J. A. Gulland, a noted expert in fisheries management, has suggested that single ownership of fish resources is a solution to many past fishery management problems:

Whatever the pattern and objectives of management, the question of ownership and jurisdiction has been critical. If fish resources were under single ownership, management would raise few major problems. There would be some scientific work in advising on the best management policy, but the great problems of reaching decisions on what limits should be set to the amount of fishing, and how these limits should be achieved, would be dealt with as part of the complete procedure of managing fish business, of which the fish resources are a major capital asset. Excess amounts of fishing would not be used because the owner would realize (given reasonable scientific advice) that the real addition to the total production by this extra effort, the marginal yield, would be small or even negative. *The Management of Marine Fisheries*, 1974, p. 4.

S. 961 is founded on the rationale that the United States, as a coastal nation, has a much greater stake in conserving the fish stocks off its shores than does a distant nation whose fleets can move elsewhere when the stocks are gone. [Sec. 2] The harmful biological results of common ownership of fish resources are now well known. S. 961 will provide a very real opportunity to reverse the trend of overfishing and holds a greater promise for success pending the outcome of the U.N. Law of the Sea Conference. [Secs. 2; 401]

III. FACT SHEET 2—EFFECT OF S. 961 ON U.S. FISHERIES

"Fact Sheet 2" purportedly shows that S. 961 will greatly damage major segments of our fishing industry. Senator Gravel asserts that the U.S. salmon and tuna industries and part of the shrimp industry,

will be totally wiped out by S. 961 at a loss of \$310 million and 79,000 jobs. (However, using the Senators own figures contained in the paper, even where his thesis is correct, the loss would be nowhere near that high. In any event, such a loss is highly unlikely.) The underlying assumption is that the United States will, inevitably and totally, lose all income from salmon fishing in the Pacific Northwest, and from tuna, and shrimp fishing in areas within 200 nautical miles of other nations shores once a 200-mile limit is declared. As will now be shown, this assumption is both dubious and speculative at best. At worst, it uses impersonal dollar values in an attempt to denigrate the real value of coastal fishing resources to the United States.

1. *Shellfish (lobster, crabs, etc.)*.—It is asserted that shellfish would receive no protection by an exclusive 200 mile fishery jurisdictional limit. The opposite is true. There has been serious problems in the past with foreign by catch of lobster and crabs on the U.S. continental shelf, even though these resources are now subject to the exclusive jurisdiction of the United States. Recent enforcement activity has been spotty and offers no assurance of preventing a continuing heavy bycatch. Expansion of our fishery zone from 12 to 200 miles will greatly alleviate this problem by (1) reducing gear conflicts between foreign fleets and our lobster and crab fishermen, and (2) increasing our ability to regulate bycatch activity and to designate no-trawl zones. [Sec. 2]

2. *Shrimp and Bottomfish*.—The paper also asserts that \$258 million worth of shrimp and bottomfish which are caught within 12 miles of the U.S. coast are already protected. This, however, is again not true. The biological fact is that shrimp and bottomfish stocks often form a continuum throughout the coastal margin extending to the edge of the 200-mile limit. Foreign catches of shrimp and bottomfish outside the 12-mile limit affect the health of stocks within 12 miles. S. 961 will allow the United States to manage these stocks as a unit. [Sec. 2] S. 961 will also ban totally all foreign fishing within 3 miles, thereby giving added protection to our fishermen in close-in waters. [Sec. 307(2)(A)]

3. *Stocks Which Would Receive Better Protection Under S. 961*.—Senator Gravel concedes that fish stocks within 200 miles of the U.S. coast would receive better protection under S. 961. However, he attempts to show that the value of these resources is small in relationship to those resources which allegedly would be harmed. There are three obvious difficulties with this argument.

First, simple dollar values do not reflect the *real* value of these resources to the United States. It is a fact that the United States spends \$1.6 billion more to import fish than it receives from exports. This has added to the vulnerability of our economy and has contributed to the depressed economic condition in our coastal fisheries. An increasing U.S. catch will improve this situation. [Sec. 2] Therefore, the cold and impersonal figures which Senator Gravel offers present a very simplistic view of the economic situation.

Furthermore, simple dollar values say nothing about the volume of fish being handled. In a competitive market, a lower supply of fish will increase the price. This is the case in regard to salmon, tuna, and shrimp. However, even in a fishery in which there is high volume and low value, there are still very real, perhaps greater, benefits

to the United States. For example, high volume fishery creates employment for a large number of people and can provide food for a broader segment of the population than a high-value low-volume fishery.

Finally, Senator Gravel has failed to say anything about future values. [Sec. 2] Mr. Kenneth Sherman, Chief of National Marine Fisheries Service Resources Assessment Division, described the economic potential of U.S. fish stocks in the July 1975, edition of the NOAA magazine:

Fish stocks of the U.S. coast are a vast renewable resource. The annual harvest by U.S. and foreign fishermen currently averages about seven million metric tons, valued at \$9.0 billion retail. The potential catch has been estimated at 10 to 20 million metric tons worth at least \$15 billion retail. These resources are subject to competitive harvesting by foreign and domestic fishermen; 14,000 U.S. vessels over five gross tons and up to a thousand foreign vessels, most over 250 tons, fish off the U.S. This situation has led to overfishing of at least 10 major commercial stocks (Alaska pollock, California sardine, haddock, halibut, herring, ocean perch, Pacific mackerel, sablefish, yellowfin sole, yellowtail, flounder), resulting in serious economic consequences. For example, overexploitation of the California sardine and the haddock off New England has resulted in an accumulated loss to fishermen in excess of half a billion dollars as of 1974.

That the recent international agreements do not in fact protect these fish resources has already been demonstrated. The number of foreign vessels and foreign nations fishing off our shores is still increasing. For example, Cuba received a quota under the ICNAF agreement for the first time ever. Also, it should not be forgotten that these agreements last but 1 year, with no real assurance that at the end of that year nations will not seek to increase their fishing effort once again.

4. *Salmon*.—It is asserted that the 200-mile fishery zone will not protect salmon industry in the Pacific Northwest. Senator Gravel claims that up to 80% of our U.S. salmon stock is beyond 200 miles from our shores. (This figure is totally inaccurate. The actual percentage is half that—40 to 50%.) This assertion ignores the fact that S. 961 asserts U.S. jurisdiction over anadromous species of fish which spawn in U.S. waters. Historically, State and Federal governments have expended considerable sums of money to protect and enhance salmon runs in the Pacific Northwest. Funds are expended for construction of fish ladders around dams, for hatcheries, for protection of spawning grounds, and for numerous research programs to enhance the salmon yield. The United Nations Law of the Sea Conference's single negotiating text reflects the basic equities of the salmon situation when it states in article 54 that "[c]oastal states in whose rivers anadromous stocks originate shall have the primary interest in and responsibility for such stocks." Both equity and the developing international consensus supports exclusive U.S. jurisdiction over the salmon resources which are spawned in U.S. streams and estuaries. Under such circumstances, it is absolutely incredible that Senator Gravel postulates the total loss of U.S. salmon resources if S. 961 is enacted. A more detailed discussion of this issue is contained in section IV of this memorandum.

5. *Tuna*.—That there will be a "cause and effect" relationship between the passage of S. 961 and the loss of the entire tuna catch and associated jobs is patently absurd. Despite official U.S. objection, nearly every Latin American country off whose shores tuna is caught claims a 200-mile fishery zone. Ecuador alone has seized over 100 U.S.

tuna boats. Nonetheless the industry has continued to survive and attract new investment, even to the point of overcapitalization. A decision not to act on S. 961 will not change fishery jurisdiction in this area of the world. However, passage of the bill may serve to relieve tensions between these countries and the United States, thereby opening the way to reasonable access agreements for our fishermen so that they may continue their livelihood without harassment. In short, there is no way that inaction on S. 961 will convince the Latin Americans that they should roll back their 200-mile fishery zones.

Tuna are highly migratory species and travel throughout the world's oceans. The tuna industry would still be able to fish tuna, even if they were foreclosed from some nation's 200-mile zone. Last year our fleet caught \$40 million worth of tuna outside 200 miles of other nations' shores. Yet, with reasonable access agreements, it can be expected that U.S. vessels will continue to fish for tuna within 200 miles of another nation's shores. In the mid-Pacific, the United States catches a very large proportion of all tuna landed. No coastal nation could fill the void if it were to exclude our tuna vessels. It makes no economic sense to let the resources go to waste. Thus, continued U.S. tuna fishing within a nation's 200 miles can be perceived as good economic policy and would not be barred.

Finally, it should be pointed out that S. 961 would give no handle for Latin American or other countries to exclude tuna vessels from their zone. S. 961 provides that the United States will not manage tuna, even within its own 200-mile zone, except pursuant to existing international agreements. Sponsors of the bill believe that this is the most appropriate approach for management of highly migratory species.

6. *Shrimp*.—As regards long-distance shrimp fishing fleets, experience has shown that bilateral treaties for access into other nations' fishery zone can be negotiated. The Brazil shrimp fishery agreement is one example. That agreement limits U.S. shrimp fishing within 200 miles of Brazilian shore in return for access to the Brazilian shrimp resources. This is the kind of agreement which the United States should be able to obtain from various friendly countries once a universal 200-mile zone is established.

Only 15% of the U.S. shrimp catch is harvested in waters within 200 miles of another nation's shores. The vessels which harvest this catch are older, and are built for long-distance fishing. It is not likely that these vessels, even if excluded from foreign fishery zones, would return to the United States.

Mexico has now declared its desire and intention to establish soon a 200-mile limit. Further, increased competition from Mexico, Cuba, and elsewhere is already growing in the Gulf of Mexico. From the shrimpers' point of view, it is inevitable that this limit will come. It seems to be, therefore, to their advantage to prepare for it. Even our State Department is negotiating treaties in recognition of the inevitability of the 200-mile zone.

IV. FACT SHEET 3—THE EFFECT OF S. 961 ON THE NORTH PACIFIC SALMON FISHERY

Senator Gravel has erroneously argued that S. 961 would be the demise of the salmon fishery in the Pacific Northwest. His argument is based on the mistaken impression that S. 961 *per se* would be an abrogation of the North Pacific High Seas Fishery Convention, thus

allowing Japan to fish for salmon east of the 175-degree longitudinal abstention line. This line was set by this 1952 treaty to mark the eastern-most point up to which Japan may fish for salmon. In reaching this conclusion, Senator Gravel fails to recognize the difference between a treaty renegotiation, and an abrogation. Section V of this memorandum, dealing with the effect of S. 961 on U.S. fisheries' treaties, will explain that S. 961, and accompanying management provisions, mandate the State Department to renegotiate U.S. fishing treaties, but not necessarily to abrogate them. [Sec. 202] Therefore, S. 961 contains no provisions which would directly abrogate the North Pacific Convention. [Sec. 202]

For the purposes of argument, let it be assumed that the United States has declared a 200-mile limit and that the Japanese are pondering a broad assault on the U.S. salmon fishery in retaliation for that act. Senator Gravel claims that the Japanese would decide to capture U.S. salmon just outside the 200-mile limit. As a result, he suggests, the entire \$120 million U.S. salmon industry would be destroyed. As will be demonstrated, this is extremely unlikely, for the Senator has failed to consider the economic realities of the Japanese high seas fishery fleet.

Salmon are an anadromous species. The young fry are hatched in the head waters of coastal streams often hundreds of miles inland. The young juveniles then swim downstream and return to the open ocean. The young salmon travel over migration routes often covering many thousands of miles. During these routes in which the salmon are widely dispersed, the juveniles mature. Upon maturing, the salmon return to the same coastal streams in which they were spawned. When the mature salmon reach the final stages of their migration and are preparing to reenter the fresh-water streams, they congregate in tremendous schools called runs. It is only after the salmon have congregated for the final leg of their migration that they are grouped closely enough for a commercially feasible harvest. This fact is supported by an analysis of the fishing patterns of the Japanese high seas fleet.

For the last several years, the United States has been keeping detailed records on the activities of foreign-fishing fleets. This data has many uses. For example, the Coast Guard concentrates its enforcement capabilities in areas of known fishing activity. An analysis of the movements of the Japanese high seas salmon fleet indicates that most of its fishing is presently conducted within 200 miles of our coast. This is only logical for it is within 200 miles of our coast where most salmon congregate in large runs as they prepare to enter fresh-water streams. Therefore, Senator Gravel's assertion that up to 100 million salmon could potentially be harvested by the Japanese under S. 961 is totally fallacious. The Japanese would not harvest anywhere near that many salmon because it is simply not as economical for them to harvest salmon outside the 200-mile limit as it is to harvest salmon within that limit.

There is another important reason why the Japanese would not seek to take U.S. salmon in tremendous quantities. The National Marine Fisheries Service has projected that, if the Japanese were not allowed to fish within 200 miles of the western Alaskan coast, there would be a reduction in the Japanese catch for the geographic area of 75% of their sockeye salmon catch; 85% of the pink salmon; 75% of the chum sal-

mon; 60% of the koho salmon; and 20% of the chinook salmon. The average reduction in their overall salmon catch would be 70 percent. The predictions of the National Marine Fisheries Service are consistent with figures supplied by the Alaskan Department of Fish and Game indicating the relative percentage of the Japanese high seas salmon catch taken inside and outside the proposed U.S. 200-mile fishery conservation zone between the years 1964 and 1973. Therefore, the Japanese would be foolish to sacrifice the bulk of their salmon catch within 200 miles for a smaller harvest outside 200 miles.

Other hard facts show conclusively the weakness of Senator Gravel's argument. The total Japanese salmon catch (including salmon taken within the proposed 200-mile zone) is approximately 34,000 metric tons. Although this is indeed a large catch, it is dwarfed in comparison to the aggregate Japanese catch of other species within 200 miles of U.S. shores. That nation's catch for species such as pollock, herring, rock fish, sable fish, flounder, hake, anchovies, mackerel, jack mackerel, and other fish totals 1,463,000 metric tons. Obviously, the Japanese must have access to surplus U.S. coastal species if their high seas fishing fleet is to remain economically viable. The Japanese will realize that if they do not abide by U.S. conservation regulations regarding salmon on the high seas, then they might be excluded from fishing for the more valuable resources along our coast. It is inconceivable that the Japanese would sacrifice access to coastal species which are of far greater importance to them than salmon. Finally, the Japanese fleet which fishes for groundfish, with few exceptions, cannot be converted to salmon fishing.

Senator Gravel argues that it would do the United States no good to withhold surplus coastal species (such as pollock) from the Japanese because there would be no market for such species in the United States. His position is simply fallacious and ignores the basic motive for Japanese fishing in the North Pacific. Japan is a fish-eating nation. Alaskan pollock alone represents 15 percent of the aggregate worldwide Japanese fishing catch. If Japan were to deprive herself of the right to fish for pollock, regardless of the other coastal species, Japan's basic fish-food needs could not be satisfied by catches from other distant-water fisheries. This is the view of several people in the salmon industry—businessmen whose future is tied to this resource (See Appendix III).

In summary, salmon represent but a small segment of Japan's high seas fishing activities off the U.S. coast. Japan, in order to protect its true economic interest, will abide by U.S. salmon regulations on the high seas. Pacific Northwest salmon fishermen from Alaska, Washington, and Oregon will not, as Senator Gravel claims, be fished out of existence by the Japanese after the implementation of the Magnuson Fisheries Management and Conservation Act, but will reap the benefits of application, for the first time, of conservation principles to salmon species in the Pacific Northwest.

V. FACT SHEET 4—EFFECT OF S. 961 ON U.S. FISHERIES TREATIES

In "Fact Sheet 4," Senator Gravel states at section 103(b) [Secs. 202(a) ; 202(b) ; 202(c)] of S. 961 terminates all existing U.S. international fisheries agreements. In support of this position, Senator

Gravel has offered the subjective opinions of Professors Baxter and Sohn, Mr. Utz, and Mr. Felando on the effects of S. 961 on the International Convention for the High Seas Fisheries of the North Pacific Ocean, the Brazil-U.S. Shrimp Agreement, the Convention for the Establishment of an Inter-American Tropical Tuna Commission, the International Convention for the Conservation of Atlantic Tunas, and the International Convention for the Northwest Atlantic Fisheries.

These opinions suffer from at least two major defects. First, they constitute evaluations of the effect of S. 961 on international agreements without providing any convincing justification or rationale for the conclusions reached. **[Sec. 202]** Second, and fatal to Senator Gravel's position, is the fact that all of these statements are based upon a complete misreading of section 103(b) **[Secs. 202(a) ; 202(b) ; 202(c)]** of S. 961.

From the outset, it must be explained that section 103(b) **[Secs. 202(a) ; 202(b) ; 202(c)]** does not require existing U.S. international fisheries agreements to be terminated. Rather, it requires the Secretary of State, in cooperation with the Secretary of Commerce, to review each existing fishery treaty, convention, or other international agreement to determine whether the provisions of such agreements are consistent with the purposes, policy, and provisions of S. 961. Further, the Secretary of State is directed to initiate negotiations for the purpose of either amending or terminating any such agreements that are not so consistent. The language of the bill does not require, as Senator Gravel has suggested, that all U.S. international fisheries agreements be automatically terminated upon passage of S. 961 (See page 27 of the Commerce Committee Report, No. 94-416). Section 103(b). **[Secs. 202(a) ; 202(b) ; 202(c)]** to the extent that it requires the Secretary of State to take any action regarding the amendment or termination of existing U.S. fisheries agreements, applies only to those agreements which are not consistent with the purposes, policy, and provisions of the bill. Further, and more specifically, the clear language contained in the bill indicates that the purpose of such negotiations shall be to conclude international fisheries agreements that will be consistent with the policy and provisions of the act. **[Secs. 202(a) ; 202(b) ; 202(c)]** To further emphasize this point, the Committee on Commerce inserted the following language on page 26 of its report on S. 961 :

It should be made clear that S. 961 does not automatically and completely negate either existing treaty rights or traditional fishing activities. Clearly, the United States has a duty to negotiate with those countries whose citizens fish in areas which would come under an extended fishery conservation zone. The purpose of this section is to direct the Secretary of State to bring negotiations in order to either phaseout or phasedown foreign fishing activities to the levels specified in section 102. **[Sec. 201]** The Committee recognizes the obligation to negotiate with other nations to achieve the goals of this act. This provision is for that purpose. **[Secs. 202(a) ; 202(b) ; 202(c)]**

The Committee recognizes the need for the United States to honor its existing international commitments concerning fisheries resources. **[Secs. 202(a) ; 202(b) ; 202(c)]** The language of section 103(b) **[Secs. 202(a) ; 202(b) ; 202(c)]** most assuredly does not carry with it the interpretation that Senator Gravel has suggested in his testimony. In

fact, section 103(b) [Secs. 202(a); 202(b); 202(c)] simply requires negotiations to begin with respect to inconsistent international fisheries agreements for the purpose of either phasing out or phasing down foreign fishing activities to the levels specified in section 102 [Sec. 201] of the bill.

The Committee is fully aware of the fact that such negotiations, and indeed any attempt to phase out or phase down foreign fishing activities, could possibly not be consummated until some time after enactment of S. 961. [Secs. 202(a); 202(b); 202(c)] The bill recognizes the often delicate process of reaching international agreement on fisheries issues and provides a considerable degree of latitude to both the Executive Branch and foreign states with respect to reaching agreement in compliance with the provisions of S. 961. [Secs. 202(a); 202(b); 202(c)] In short, S. 961 neither mandates nor contemplates action designed to abrogate existing U.S. international fisheries obligations. Abrogation must be clearly intended and no judicial body could find such intention in S. 961. [Secs. 202(a); (b); 202(c)]

Other arguments on this point are simply not germane. For example, Professor Baxter's statement claims that section 101(b) [Sec. 202(2)] of the bill would be inconsistent with existing agreements with the Japanese concerning the harvest of U.S. salmon on the high seas. What makes Professor Baxter's opinion miss the mark is the fact that he has chosen to selectively hypothesize about the possible effects of individual sections of the bill without analyzing the provisions of S. 961 *in toto*. As we have already indicated above, section 103(b) [Secs. 202(a); 202(b); 202(c)] of the bill clearly provides that existing U.S. international obligations would be honored. The bill merely mandates that negotiations be undertaken to make all U.S. fisheries agreements consistent with the provisions of S. 961. [Secs. 202(a); 202(b); 202(c)] This same response would also apply to Professor Sohn's comment concerning his perceptions of the effect of S. 961 on ICNAF.

The comments by Mr. Utz and Mr. Felando similarly labor under a complete misunderstanding of the effect of S. 961 on U.S. international fisheries agreements. Mr. Utz, for example, claims that the passage of S. 961 would handicap his position to the extent that he would have no "logical basis upon which he could return to the bargaining table with the Brazilians" with respect to the existing Brazil-U.S. Shrimp Agreement. This statement is utter nonsense. The United States and the U.S. shrimp industry has in both 1972 and 1975 found a logical basis upon which to bargain with the Brazilians concerning the harvesting of shrimp by U.S. fishermen off the Brazilian coast. S. 961 would not change that situation. [Secs. 202(a); 202(b); 202(c)]

The comments by Mr. Felando are even more baffling to understand, especially in light of the fact that S. 961 specifically excludes tuna from exclusive U.S. control and states that such species shall be managed solely pursuant to international fishery agreements established for that purpose. [Secs. 2(b)(2); 103] Both IATTC and ICCAT referred to by Mr. Felando are existing international fishery agreements that are clearly designed to serve such a purpose. In fact, this provision in S. 961 is in tандum with that contained in the single negotiating text that emerged from the 1975 Geneva session of the

U.N. Law of the Sea Conference. [Secs. 2(b)(2) : 103] What Mr. Felando appears to be saying is that any law, either domestic or international, that takes cognizance of the need to conserve fishery resources is going to destroy IATTC and ICCAT. If indeed that alternative is the only option available with respect to the world's fishery resources, then we must lend our support to the position that recognizes the need to conserve world fishery resources. However the alternatives are not quite so narrow and we believe that S. 961 will not in any way detrimentally affect the operation of either IATTC and ICCAT. [Secs. 202(a) : 202(b) : 202(c)] In fact, S. 961 will lend increased credibility and stature to the operation of these international fisheries commissions and provide the opportunity to make them more viable fishery resources conservation organizations.

VI. FACT SHEET 5—S. 961 VIOLATES INTERNATIONAL LAW

In "Fact Sheet 5," Senator Gravel attempts to argue that S. 961 would violate existing international law. In support of this opinion, he presents a series of misleading arguments he hopes will convince the reader that his thesis is correct. His position is singularly unpersuasive.

Senator Gravel must apparently believe that any unilateral claim to ocean space somehow creates a violation of international law. He fails to recognize the dynamic quality and everchanging nature of the international legal process. The existing law of the sea, as contained in both international treaties and as reflected by customary international law, is largely a product of unilateral claims to ocean space. S. 961 may indeed be a unilateral claim to ocean space, [Sec. 101] but it is not an exclusive claim excluding other interests and the claim enjoys considerable support within the world community. [Sec. 2] The bill is replete with references to the need to maintain international agreements covering foreign fishing on U.S. fish resources, [Secs. 2; 201; 202; 204] and specifically recognizes that traditional foreign fishing practices will be a factor in determining the permissible level of the foreign fish harvest within a U.S. 200-mile zone. [Sec. 201(e)(1)] Therefore, S. 961 is a reasonable measure in the context of existing and developing practice among coastal nations.

There are no specific treaty provisions that address the question of the permissible seaward limits of coastal state control over fisheries resources. Arguments that either one or several of the four 1958 Geneva conventions on the law of the sea would be violated by actions contemplated under S. 961 simply are not valid. Not a single article in any of those conventions, or any other international convention, can be said to address the issue. As Judge De Castro stated in his concurring opinion in the 1974 ICJ decision in the *Iceland Fisheries Jurisdiction* case:

There are no well-founded arguments in favour of the binding character of the 12-mile rule; those built upon *ad hoc* interpretations of articles in the 1958 conventions do not convince. The 1958 Conference failed in its attempt to fix a limit to fisheries jurisdiction. How can one deduce from the conventions what the parties to the Conference refused to say?

Since international treaty law on the question of the acceptable limits of coastal nation jurisdiction over fisheries resources is lacking, one must refer to customary international law in an attempt to

clarify this issue. Senator Gravel cites a statement by Professor Sohn to the effect that there is no legal basis in customary international law for coastal nations to declare an expansive zone of fisheries jurisdiction. This statement is simply not true. It fails to take into account either the rapidly changing situation concerning the harvesting of the living resources of the world's oceans or the increasing number of coastal nations which have extended their control over fishery resources adjacent to their coasts.

Laissez-faire treatment of the oceans' living resources, prevalent from the time of Grotius in the early 1600's and through the end of the 1950's, has rapidly been replaced by recognition within the world community of the need and duty of coastal nations to take positive action to conserve fishery resources. The most that can be said is that international law regarding the question of the permissible limits of coastal nations jurisdiction over the living resources of the sea is in a state of flux. Nearly 40 coastal nations have already extended their exclusive fishery jurisdiction beyond 12 nautical miles from their coasts. Both Iceland and Mexico have, within the past month, extended their fisheries jurisdiction seaward to 200 nautical miles. As the five members of the majority stated in the *ICJ Iceland Fisheries* case:

"In our view, to reach the conclusion that there is at present a general rule of customary law establishing for coastal states an obligatory maximum fishing limit of 12 miles would not have been well founded. There is not today an international usage to that effect sufficiently widespread and uniform as to constitute, within the meaning of Article 38, paragraph 1(b), of the Court's Statute, evidence of a general practice accepted as law." (Page 46)

* * * "It could therefore be concluded that there is at present a situation of uncertainty as to the existence of a customary rule prescribing a maximum limit of a state's fisheries jurisdiction. No firm rule could be deduced from state practice as being sufficiently general and uniform to be accepted as a rule of customary law fixing the maximum extent of the coastal states jurisdiction with regard to fisheries." (Page 52)

Given this uncertainty, positions taken at the Third U.N. Law of the Sea Conference concerning this very issue take on added significance. While the proposals and statements made at the Conference concerning this issue do not, in and of themselves, constitute customary international law, they are strongly indicative of a new consensus on the question of fisheries jurisdiction. This is particularly true when combined with the fact that customary international law concerning the permissible seaward limits of coastal nation jurisdiction over fisheries resources is currently in the process of being remolded. S. 961 is virtually a carbon copy of the provisions concerning coastal nation jurisdiction over fishery resources contained in the single negotiating text that emerged from the 1975 Geneva Sessions of the U.N. Law of the Sea Conference. S. 961 can thus be said to comply with the expectations of the world community concerning the acceptability of coastal nation control over fisheries resources.

In the absence of a clear rule, what standards are to be used in judging the legality of a coastal nation's claim to an extended zone of fisheries jurisdiction? Such claims, in the words of H. A. Smith, must be reasonable:

If the general law, apart from exceptions created by special treaties, fails to give reasonable protection, then the law is defective and should be amended by common consent. The law of nations, which is neither enacted nor interpreted by any visible

authority universally recognized, professes to be the application of *reason* to international conduct. From this it follows that any claim which is admittedly *reasonable* may fairly be presumed to be in accordance with law and the burden of proving that it is contrary to law should lie on the State which opposed the claim. (Emphasis added) Smith, *The Law and Custom of the Sea* 29(1959).

McDougal and Burke in *The Public Order of the Oceans* indicate that such claims, to be reasonable, must be measured against the interest sought to be protected, the significance of that interest to the coastal nation, and the scope of the authority asserted by the coastal nation to protect that interest.

The reasonableness of S. 961, when analyzed according to the above guidelines, is clear. First, S. 961 is directed toward the conservation and protection of a major resource of the United States—our fisheries. **[Secs. 2; 101; 102]** These resources have been grievously overexploited by massive foreign fishing activities. **[Sec. 2]** The volume of fish harvested off the U.S. coast has increased dramatically from approximately 4.4 billion pounds in 1948 to 11.6 billion pounds in 1973. Here again, landings by U.S. vessels remained virtually constant throughout the 25-year time span while the foreign catch in U.S. coastal waters increased to an annual level of 7.9 billion pounds, a figure that represents nearly 70 percent of the commercial U.S. coastal fish harvest. **[Sec. 2]**

In the same 25-year period, consumption of fish products in the United States has more than doubled, from 3.1 billion pounds in 1948 to 7 billion pounds in 1973. Under existing growth patterns, this figure could increase by an additional 3 billion pounds by 1985. Nearly the entire growth in U.S. fish consumption has been supplied by imports that are often harvested in U.S. coastal waters by foreign fishing fleets, processed in the home port of the foreign fishing vessel, and exported for sale to the United States. **[Sec. 2]**

Today the United States imports over 60 percent of its fish products needs. In 1974, the U.S. balance of trade deficit in fishery products alone amounted to nearly \$1.5 billion. It has been estimated that if imports of foreign fisheries products were replaced by domestic production, the additional economic impact on the U.S. economy would approach \$3 billion and result in an increase of 200,000 man-years in employment.

As a result of virtually unrestrained harvesting of U.S. coastal fishery resources, particularly by large-scale foreign fishing fleet operations, at least 14 fish species of interest to U.S. fishermen have been overfished and the continued economic viability of others has been threatened. These statistics dramatize the importance and significance of fishery resources to the United States and indicate that positive action is necessary to protect and conserve these resources. **[Sec. 2]**

Secondly, the extension of U.S. jurisdiction as proposed by S. 961 is strictly limited to fishery resources. **[Secs. 2(c)(1); 2(c)(2); 101]** Such activities as navigation, vessel passage through straits, general navigation and overflight, scientific research, deep seabed mining, or other ocean-related issues are not addressed by this legislation. **[Secs. 2(c)(1); 2(c)(2); 101]** Thus, S. 961 contemplates no action unrelated to fishery conservation and, therefore, is reasonable in scope. **[Secs. 2(c)(1); 2(c)(2); 101]**

Third, the legislation protects both U.S. and world community interests in fishery resources found off the coast of the United States. **[Sec. 2]** Overfishing of these resources, particularly by foreign fishing fleets, has resulted in severe depletion of many economically important fish species—this is fact. It has been estimated that U.S. coastal waters contain upward of 20% of the world's living resources and positive U.S. action to protect and conserve these resources, as exemplified by S. 961, pending international settlement on the question of coastal state control over fishery resources, not only protects the resources for the United States but for the world community at large. In addition, S. 961 specifically provides that existing U.S. international commitments concerning these resources will continue to be honored pending the conclusion of negotiations directed toward the objective of making all U.S. fisheries agreements consistent with the requirements of the bill. **[Secs. 201; 202]** Further, S. 961 recognizes that traditional foreign fishing activity will be considered as a factor in future decisions concerning the acceptable level of harvest of U.S. resources by foreign nations. **[Sec. 201(e) (1)]**

S. 961 is thus (1) reflective of international expectations concerning the need of coastal nations to take positive action to conserve the living resources of the world's ocean **[Sec. 2]**; (2) nearly identical to fishery jurisdiction provisions in the single negotiating text that is the basis for future law of the sea negotiations **[Sec. 2; 101]**; and (3) fully in compliance with the standard of reasonableness that is used to evaluate the legality of unilateral claims under customary international law. **[Sec. 2; 101]**

Senator Gravel's subjective materials not only provide an unbalanced analysis and evaluation of historic international law developments concerning coastal state jurisdiction over fishery resources, but also fail to address those issues that are relevant in determining the current status of this issue in international law. Most importantly, his conclusion that S. 961 violates international law is simply not valid. As has been indicated above, S. 961 provides an effective medium to conserve the living resources of the world's oceans and is reflective of the rich and long tradition in the development of customary international law of the sea which has been the product of mutual accommodation, reasonableness, cooperation, and a continuing process of claim and counterclaim. **[Sec. 2]**

VII. FACT SHEET 6—EFFECT OF S. 961 ON THE NEGOTIATIONS

Before addressing specifically the comments presented by Senator Gravel concerning what he believes the effect of S. 961 might be on the ongoing U.N. Law of the Sea negotiations, a more balanced analysis concerning the relationship, if any, between S. 961 and the conference must be outlined.

The need to convene a U.N. Law of the Sea Conference, the third such international conference convened in less than 20 years, reflects a rapidly changing situation in world ocean affairs. Such rapid change is the result of a number of factors, including (1) a great leap in the technological capacity to exploit ocean resources; (2) the emergence of a vast number of new-nation states since the four existing 1958 Law of the Sea Conventions were signed; (3) a recognition that the former

laissez-faire attitude toward the world's ocean living resources must be replaced by a regime which recognizes the need to conserve and manage such resources; (4) increasing economic potential of a wide variety of ocean uses; and (5) the anachronistic nature of the existing Conventions on the Law of the Sea. The international legal regime as represented in the 1958 conventions, and the multitude of other international fisheries agreements, has simply not kept pace with the ability to quickly destroy the world of fishery resources.

The 1958 Law of the Sea Conventions can no longer be said to totally and accurately reflect the current status of international law regarding the oceans, particularly with respect to the fisheries jurisdiction. Consequently, reference must be made to customary international law for the purpose of evaluating the "legality" of coastal nation actions to control such resources. As the International Court of Justice has indicated, the status of this law is currently in a state of flux. Thus, the positions taken at the U.N. Law of the Sea Conference regarding coastal nation jurisdiction over fishery resources are highly relevant to the question of "legality." Since the Conference is directed toward the objective of codifying a new international law of the sea regime, the positions taken by the world community with respect to the various issues before the conference can indeed be said to reflect international expectations on these issues. With this in mind, it must again be noted that S. 961 is virtually identical to the jurisdictional provisions set forth in the Conference's single negotiating text.

Combined with this fact, it should additionally be noted that there exists no major opposition whatsoever to the fishery jurisdiction provisions in that text. Indeed, if the fisheries issue were separated from the remaining contentious issues still to be resolved, it is reasonable to assume that the right of coastal nations to exert jurisdiction over fisheries resources seaward to a distance of 200 miles would be immediately codified in a treaty. This fact bears repetition. Simply put, the question of coastal nation jurisdiction over fisheries resources is not an issue preventing successful conclusion of the Conference.

After recognizing: (1) that a clearly defined international rule delimiting coastal nation jurisdiction over fisheries resources does not exist; (2) that nearly 40 coastal nations have extended their fisheries jurisdiction beyond 12 nautical miles; (3) that S. 961 clearly meets the standard of reasonableness used to evaluate the acceptability of unilateral claims under customary international law; (4) that S. 961 closely parallels the language contained in the U.N. Law of the Sea Conference single negotiating text with respect to coastal nation control over fisheries resources and thus is reflective of international expectations; and (5) that S. 961 is only an interim piece of legislation [Sec. 401] which would terminate upon implementation of a comprehensive law of the sea treaty, it is impossible to fathom Senator Gravel's statement that passage of S. 961 would destroy the Law of the Sea Conference. [Secs. 2(c) (5) ; 401]

The remainder of Senator Gravel's statements concentrate on two issues. First, he maintains that implementation of S. 961 would constitute a direct challenge to the U.N. and a resolution urging nations not to proclaim unilateral jurisdiction over ocean space. Second, he claims again that the passage of S. 961 would scuttle the Third U.N. Law of the Sea Conference.

With respect to the first issue, it is difficult to understand how actions by the United States to protect and conserve fisheries resources would constitute a direct challenge to the United Nations. As has been indicated previously, such action does not violate international law and agrees with the majority position in the Conference. Further, the claim that U.S. implementation of fishery conservation measures would violate a recently adopted U.N. resolution concerning coastal nation claims to ocean space is unfounded. We can only assume that Senator Gravel's reference to the U.N. resolution relates to Resolution 2574 (XXIV) adopted by the 24th session of the U.N. General Assembly. This resolution, far from dealing with actions by coastal nations to protect and conserve fishery resources, relates to claims of nations concerning the exploitation of the resources of the international seabed and subsoil beyond the limits of national jurisdiction. This resolution thus has absolutely no nexus to the question of coastal nation jurisdiction over adjacent fisheries resources.

The argument that implementation of legislation designed to conserve and protect U.S. fisheries resources would destroy the ongoing efforts to achieve a comprehensive international law of the sea treaty at the U.N. Law of the Sea Conference has already been shown to be without substance. It is ridiculous to assume that enactment of S. 961, which is in accord with the single negotiating text, would jeopardize the chances of reaching agreement at the Conference. [Secs. 2(c)(5); 401] The question of coastal nation control over fisheries resources is not even a contentious issue, and, as we have indicated previously, this action is clearly not in violation of international law. The unilateral implementation of the Arctic Waters Pollution Prevention Act in 1970 by Canada, which provided for coastal state claim over navigation in areas up to 100 miles from the Canadian Arctic coast, had no negative impact on the Conference despite the fact that the Canadian claim did not at all reflect widely held positions at the Conference. If indeed the Conference fails to reach agreement, it will not be as a result of any action taken by the United States to conserve its fisheries resources, but of the inability of the conferees to agree on other contentious issues.

VIII. PROGRESS OF THE LAW OF THE SEA NEGOTIATIONS

In his satirical work "Candide", the writer Voltaire pokes great fun at the blind optimists of his day. If he were alive today he most certainly would have written about those who flatly state that the U.N. Law of the Sea Conference will agree to a comprehensive treaty next March in New York, or even at the end of 1976. Those who have been intimately involved in the negotiations know that it will take at least 2 to 5 years for agreement, assuming the Conference holds together for that long. It will then take another 3 to 5 years to ratify the treaty. Senator Gravel has, on occasion, said that 80% of the treaty is concluded. But since the treaty must be concluded a "package deal", there can be no agreement on the package until all the parts have consensus support. Therefore, even if 99% of the items were finished, that 1% could become the deadlock which prevents a treaty from coming into being. Even the previous head of the U.S. delegation to the Law of the Sea Conference is not as sanguine about the future

success of the Conference as is Senator Gravel. In a recent article which appears in the *American Journal of International Law*, Ambassador John Stevenson summarizes future prospects for agreement with something far less than ebullient optimism:

Aspirations for successful completion of the Conference have not been met in 1975. It remains unclear whether these aspirations will be met in 1976. This depends in part on whether there is sufficient political will to make the additional accommodations necessary for a success, and whether adequate time is provided for both informal work and conference session. One eight week conference session is almost certainly not enough.

This hardly comports with Senator Gravel's statements before the Senate Foreign Relations Committee. Little more on this question needs to be said. The Senate Foreign Relations Committee has been deeply involved in these matters and can make its own assessment of the prospects for a law of the sea treaty being concluded next year.

APPENDIX I

U.S. DEPARTMENT OF COMMERCE,
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,
NATIONAL MARINE FISHERIES SERVICE,
NORTHWEST FISHERIES CENTER,
Seattle, Wash., October 17, 1975.

Hon. MIKE GRAVEL,
U.S. Senate,
Washington, D.C.
Attention: Mr. Huessy.

DEAR MR. HUESSY: This letter is in response to your telephone call October 14 to Mr. Pruter. We understand you wish to obtain estimates of the time required to rebuild major fisheries resources of the eastern Bering Sea and northeast Pacific under various harvest strategies; e.g., (1) current, (2) intermediate, and (3) cessation levels (no harvest). Apparently, you already have our current estimates of the relation between equilibrium yields and expected catches of certain species of groundfish in the eastern Bering Sea and northeastern Pacific, but if not they are provided in the attached table.

It is important to recognize that when we speak of equilibrium yields we are referring to yields we believe could be attained under current environmental conditions and fishing practices. A major change in fishing practices, such as a shift from harvesting predominantly large and old fish to small and young fish which have not had an opportunity to spawn, could affect the estimates of equilibrium yield. Similarly, changes in temperature, salinity, water currents, and other environmental factors could affect fisheries productivity and, hence, potential yields. The history of research in the Bering Sea and northeastern Pacific is too short to enable us to predict environmental changes, let alone the effects such changes would have on the productivity of the many species and stocks that reside there. Consequently, the best we can do is to provide estimates of potential yields that prevail now, recognizing that future changes in either the environment or fishing practices could require a new set of estimates. This, of course, is why we must continue to monitor the environment, the fisheries, and the biological status of the resources.

In addition to the foregoing problems, I'm sure you recognize there are other factors which affect our estimates. *They include gross, and sometimes incomplete or erroneous, catch and biological statistics provided to us by some fishing nations and the difficulty of defining what "rebuilding" of fisheries stocks means.* All this is not a "cop-out" to answering your question, but sets the stage for caution in interpreting what we provide below.

For purposes here we shall define "rebuilding" to mean restoration of stocks to intermediate levels and not to the higher pre-fished levels. From the standpoint of developing U.S. fisheries the pre-fished levels would be the most attractive, but more time would be required to rebuild to pre-fished than to intermediate stock levels.

I. EASTERN BERING SEA AND ALEUTIANS

Pollock.—By far the largest fisheries resource now being exploited in the Bering Sea. Relatively short-lived (by age 8 are scarce in catches) and probably influenced greatly by the environment as well as by fishing.

Expected catches (metric tons) in 1975:

Japan ¹	1, 100, 000
USSR ¹	210, 000
Other nations.....	3, 000
Total	1, 313, 000

¹ Agreed quota.

Estimated sustainable yield under current environmental conditions and fishing practices: 1,000,000 metric tons.

Years required to rebuild to intermediate stock levels: At current level of harvest—not attainable; At annual harvest level of 850,000 metric tons—5–7 yrs. With cessation of fishing—3–5 years.

Pacific ocean perch, flounders (yellowfin sole, rock sole, turbot, etc.), and others (Pacific cod, sablefish, etc.). A mixed bag of species with different life histories and quota arrangements with Japan and USSR. Pacific ocean perch is a long-lived species (over 20 years of age common in early catches) and dominantly affected by fishing. Separate stocks reside in the eastern Bering Sea and Aleutians. Flounders generally are shorter lived than Pacific ocean perch but still probably dominantly affected by fisheries. Pacific cod is similar to pollock. All the foregoing species form localized stocks which should be treated as separate management entities. Sablefish have an intermediate growth rate between Pacific ocean perch and pollock. In contrast to the localized nature of the other species, sablefish migrate extensively between the eastern and western Bering Sea (Asia to North America) and between the Bering Sea, Gulf of Alaska, and Pacific Northwest.

Expected catches (metric tons) in 1975

Pacific ocean perch:		
Japan	-----	¹ 11,000
U.S.S.R.	-----	148,000
Total	-----	373,000
Flounders and others:		
Japan	-----	¹ 214,000
U.S.S.R.	-----	0
Total	-----	214,000

¹ Agreed quota.

Estimated sustainable yield: 350,000.

Years required to rebuild to intermediate stock levels: Pacific ocean perch, at current level of harvest—not attainable, at annual harvest of 7,000 metric tons—20 yrs.; with cessation of fishing—8–15 yrs.

Yellowfin sole: At current level of harvest—10–20 yrs.; at annual harvest of 65,000 metric tons—5–19 yrs.; with cessation of fishing—3–5 yrs.

II. GULF OF ALASKA

Pollock.—See earlier comments. Much less important faunal constituent in Gulf of Alaska than in Bering Sea.

Expected catches (metric tons) in 1975

Japan	-----	7,000
USSR	-----	¹ 40,000
Poland	-----	9,000
Others	-----	1,000
Total	-----	57,000

Estimated sustainable yield: 100,000 metric tons (exceeds present catch level).

Rockfishes (primarily Pacific ocean perch).—See earlier comments for Pacific ocean perch which generally apply to all species of rockfish. Pacific ocean perch severely overfished by USSR with help from Japan in 1960's. Catches are still too large to permit rebuilding of stocks.

Expected catches (metric tons) in 1975

Japan	-----	¹ 54,000
USSR	-----	¹ 10,000
Others	-----	3,500
Total	-----	67,500

¹ Agreed quota.

Estimated sustainable yield: 50,000 metric tons.

Years required to rebuild to intermediate stock levels: At current level of harvest—not attainable; at annual harvest level of 40,000 metric tons—8–15 yrs., with cessation of fishing—4–10 yrs.

Sablefish.—See earlier comments. We view this species to be on the borderline of being overfished, but our knowledge is not comprehensive enough to make any precise judgements. Catch is rapidly rising because of increasingly intense longline fishery by Republic of Korea.

Expected catches (metric tons) in 1975

Japan.....	¹ 30, 000
U.S.....	1, 000
Others.....	² 10, 000
Total.....	41, 000

¹ Agreed quota.

² An increase over figure given in attached table.

Estimated sustainable yield—30,000 metric tons.

Years required to rebuild to intermediate stock level: At current level of harvest—not attainable; at annual harvest level of 20,000 metric tons—8-12 yrs.; with cessation of fishing—5-8 yrs.

Flounders and others (Atka mackerel, Pacific cod, etc.).—A variety of flounders ranging from deep-water forms such as Dover sole to shallow-water forms such as starry flounder. Flounder with greatest potential for increased harvest is probably turbot (arrowtooth flounder). Among "others," Atka mackerel is the object of an increasing fishery by USSR and Poland, but we have very little information on the size of this resource or its potential yield. Pacific cod is the object of a U.S. trawl fishery off British Columbia, Washington, and Oregon, but not off Alaska at the present time.

Expected catches (metric tons) in 1975

Japan.....	25, 000
U.S.S.R.....	30, 000
Poland.....	9, 000
Others.....	0
Total.....	64, 000

Estimated sustainable yield—115,000 metric tons.

III. WASHINGTON, OREGON, AND CALIFORNIA

Pacific hake.—Relatively short-lived as are its close relatives, the Pacific cod and pollock. Spawns off Southern California and Mexico and travels as far northward as British Columbia on feeding migrations.

Expected catches (metric tons) in 1975

U.S.S.R.....	¹ 150, 000
Poland.....	¹ 44, 000
United States.....	6, 000
Others.....	1, 000
Total.....	201, 000

¹ Agreed quota.

Estimated sustainable yield 150,000 metric tons.

Years required to rebuild to intermediate stock levels: At current level of harvest—not attainable; at annual harvest level of 100,000 metric tons—3-5 yrs.; with cessation of fishing—2-4 yrs.

Rockfishes.—Many species present, an increasing number of which are being sought by U.S. fishermen. Pacific ocean perch formerly was the primary target species for U.S. trawl fishery off Oregon and Washington, but is now depleted from overfishing by Soviets and Japanese. Several species, including Pacific ocean perch, are unavoidably caught by USSR and Poland while seeking hake. Rebuilding of Pacific ocean perch stocks may be impossible as long as there is a large fishery for hake.

Estimated catches (metric tons) in 1975

Japan.....	¹ 4, 000
U.S.S.R.....	¹ 2, 500
Poland.....	1, 000
United States.....	10, 000
Total.....	17, 500

¹ Agreed quota.

Estimated sustainable yield—15,000 metric tons.

Pacific ocean perch probably is the only rockfish which is currently depleted from overfishing. As noted above, it may not be possible to rebuild this resource as long as large incidental catches continue to be taken by foreign fleets seeking hake.

Flounders and others (Pacific cod, lingcod, sablefish, etc.).—Most are important to existing U.S. fisheries. Sablefish are being increasingly exploited by Republic of Korea off Washington and Oregon and may be near the depleted stage.

Expected catches (metric tons) in 1975

U.S.S.R.	1 3, 000
Republic of Korea	2 1, 500
United States	30, 000
Total	34, 500

¹ Agreed quota.

² Not shown in attached table.

Estimated sustainable yield—40,000 metric tons.

With regard to halibut, this important resource to U.S. fishermen is in a state of depletion in the Bering Sea and is deteriorating rapidly in the Gulf of Alaska. Strict conservation measures applied to the purposeful North American setline fishery have not stemmed the decline because of the impact of incidental catches in trawl fisheries for other species. Projections of time required for rebuilding under various catch restrictions, therefore, are not possible as long as large-scale fisheries for other species continue.

In summary, the condition of major groundfish stocks throughout the region is generally poor and continues to deteriorate. With a reduction in catch of about 20 percent, rebuilding to intermediate levels of abundance might be expected in from 5 to 10 years for many species; a cessation of fishing would probably allow rebuilding to occur within 3 to 6 years. As long as substantial fishing continues, some species (e.g., Pacific ocean perch, halibut, cod) because of their incidental capture in fisheries for other species—will never be restored to previous levels of abundance.

Sincerely,

DAYTON L. ALVERSON,
Center Director.

Enclosure.

RELATION BETWEEN EQUILIBRIUM YIELD AND EXPECTED CATCH OF TRADITIONAL GROUND FISH SPECIES IN THE EASTERN BERING SEA AND NORTHEASTERN PACIFIC OCEAN, 1975-6

[In thousands of metric tons]

Region and species	Expected catch or quota						Equilibrium yields	MSY, total
	Japan	U.S.S.R.	Poland	United States	Others	Total		
East Bering Sea and Aleutians:								
Pollock	1 1,100	1 210.0	0	0	3.0	1,313.0	1,000	-313.0
Herring	1 18	1 30.0	0	0	0.3	48.3	40	-8.3
POP.	1 11		0	0	0			
Others	1 214	1 148.0	0	0	0	373.0	350	-23.0
Total	1 1,343	1 388.0	0	0	3.3	1,734.3	1,390	-344.3
Gulf of Alaska:								
Rockfishes	1 54	1 10.0	0	0	3.5	67.5	50	-17.5
Pollock	7	1 40.0	9	0	1.0	57.0	100	+43.0
Sablefish	1 30		0	1	5.0		30	
Flounders	24		0	0	0	100.0	90	+45.0
Others	1	1 30.0	9	0	0		25	
Total	1 116	1 80.0	18	1	9.5	224.5	295	+70.5
Washington and California:								
Hake	0	1 150.0	1 44	6	1.0	201.0	150	-51.0
Rockfishes	1 4	1 2.5	1	10	0	17.5	15	-2.5
Flounders	0		0	20	0		20	
Others	0	1 3.0	0	10	0	33.0	20	+7.0
Total	1 4	1 155.5	45	46	1.0	251.5	205	-46.5

¹ Agreed quota; all others based on recent performance.

APPENDIX II

1976 ICNAF CATCH QUOTAS (TAC's) FOR SA 5-6 AND ESTIMATED RECOVERY TIME OF STOCKS TO MSY BIOMASS

The following table (prepared by the National Marine Fisheries Service) presents an estimated time schedule for the recovery of the presently-regulated stocks in SA 5-6 to the MSY biomass level given that a second tier overall quota of 650,000 tons is maintained for a seven-year period starting in 1976, which is the time estimated as necessary for the recovery of the finfish (less menhaden, billfishes, tunas, and large sharks) and squid biomass to the MSY level. The recovery time specified for each stock must be considered strictly as a qualitative judgment and is not (nor can it be!) the product of extensive and detailed analyses. There are too many variables. For many of the stocks there is not a good estimate of the MSY biomass. Since the overall TAC is 650,000 tons and the sum of the species' TACs is 816,000 tons, each individual TAC cannot be taken if the overall TAC is adhered to. Presumably, the TACs for the most desired species will be taken whereas those for the lesser desired species will not be achieved. However, the desires may change somewhat from year to year. Therefore, the actual catch from each stock would not be expected to remain constant over the given period of time (i.e. 7 years) given a constant overall TAC during that time.

Species	ICNAF area	1976 TAC ¹ (thou- sands of tons)	Years to recover including 1976	Comments
Cod.....	5Y.....	8	5	No assessment available, but F ² appears to presently exceed F _{max} . ³
	5Z.....	35	0	Stock appears to be at MSY level now.
Haddock.....	5.....	6	7	Stock depressed; poor recruitment, catch should be zero. Large inadvertent by-catch.
Redfish.....	5.....	17	4-5	Present biomass near MSY level, but may be lower. Slow-growing species requires long time for even slight increase in biomass.
S. hake.....	5Y.....	10	5	Biomass and catch below MSY level. Fast-recovering stock, however. Variable recruitment. ⁵
	5Ze.....	50	3-4	MSY level currently not known. Present F twice F _{max} . Stock can recover rapidly. 1976 TAC will start recovery.
	5Zw+6.....	43	4-5	MSY level not known. F exceeds F _{max} . 1976 TAC will only maintain biomass, but should increase in following years.
R. hake.....	5Ze.....	26	3	MSY level not known. Weak assessment. Strong recruitment forthcoming.
	5Zw+6.....	16	4-5	MSY catch level should be 40,000 tons. Stock currently down. MSY should recover quickly given strong recruitment.
Pollock.....	4VWX+5.....	(18)55	0	Stock appears to be stable. Expected catch of 18,000 tons in SA 5.
Yellow tail.....	5(E 69°).....	16	>7	Stock now 60 percent of NSY level and going down. Will continue to decline under present TAC level.
	5(W 69°)+6.....	4	>7	Stock seriously depressed. Catch should be zero. Recovery chances poor until recruitment improves.
All flounders except yellow tail.	5+6.....	20	7	MSY biomasses not known. Stocks have declined in recent years. High by catch in other fisheries.
Herring.....	5Y.....	(?)		No improvement in biomass assuming constant low recruitment. Stronger year-class ⁶ would initiate recovery.
		(*)		Seriously depressed stock. Given present recruitment levels, biomass will increase only 20 percent in years. Stronger year classes would result in faster recovery.
Mackerel.....	5Y and 6.....	254	4-5	TAC at MSY effort level should be ca 100,000 tons in 1976. Biomass at beginning of 1975 estimated only 1/3 of MSY level. Strong year-classes would result in quick recovery, providing TAC is lower.
Other finfish (+20 species).	5 and 6.....	150	5-6	MSY biomass not known. Stocks have declined. High by catch.
Squid-Illex.....	5 and 6.....	30	0	Biomass estimates difficult to obtain and imprecise. Stock condition not known precisely, but assumed stable.
Squid-Loligo.....	5 and 6.....	44	0	Biomass believed to be stable.
All finfish and squids.....	5 and 6.....	650	7	

TAC refers to the total allowable catch under species quotas recommended by ICNAF for 1976.

² F is the present rate of fishing effort (mortality).

³ F max is the amount of fishing effort (mortality) consistent with the maximum yield per recruit and, over a long period of time, with MSY.

⁴ Bycatch is the incidental catch of fish other than the target species in a particular fishery.

⁵ Recruitment is the number of young fish which grow to harvestable size within a given year.

⁶ Year class is the number of fish hatched within a given year.

⁷ Preliminary view of U.S. scientists is that 1975 5Y herring quota of 16,000 MT should be substantially reduced to stabilize stock and initiate recovery.

⁸ Preliminary view of U.S. scientists is that the 1975 5Z-6, herring quota of 150,000 MT should be substantially reduced to stabilize stock and initiate recovery.



ICNAF STOCK DIVISIONS OFF THE U.S. COAST

ICNAF SCIENTIFIC RECOMMENDATIONS ON TAC'S AND LEVELS AGREED FOR 1976

Species and stock area	Recommended 1976 TAC (MT)	Agreed 1976 TAC (MT)	Comments
Cod:			
5Y.....	8,000	8,000	
5Z.....	35,000	35,000	
Haddock: 5.....	0	6,000	Allowance for unavoidable bycatch.
Redfish: 5.....	17,000	17,000	
Silver hake:			
5Y.....	10,000	10,000	
5ZE.....	50,000	50,000	
5ZW+6.....	43,000	43,000	
Red hake:			
5ZE.....	26,000	26,000	
5ZW+6.....	16,000	16,000	
Pollock: 4VWX+5.....	55,000	55,000	18,000 MT allocate for subarea 5.
Yellowtail, flounder:			
5(E 69-).....	16,000	16,000	
5(W 69-).....	0	4,000	Allowance for unavoidable bycatch.
Flounders except yellowtail: 5+6.....	20,000	20,000	
Mackerel: SA 3-6.....	310,000	310,000	Assessment was made for mackerel stock throughout this area and a TAC of 254,000 was subsequently allocated for subarea 5+6. Due to differing estimates of the 1975 catch, U.S. scientists feared a lower 1976 TAC than that recommended.
Other finfish: 5+6.....	150,000	150,000	
Squid (loligo): 5+6.....	44,000	44,000	
Squid (illex): 5+6.....	30,000	30,000	

APPENDIX III

NATIONAL FISHERIES INSTITUTE, INC.,
Washington, D.C., November 12, 1975.

Hon. CLAIBORNE PELL,
Subcommittee on Oceans and International Environment,
Senate Foreign Relations Committee,
Washington, D.C.

DEAR SENATOR PELL: Recently in hearings before your Subcommittee, Senator Gravel presented extensive testimony regarding the impact of S. 961, on the United States fishing industry and made specific reference both to the effect of S. 961, on the salmon industry, U.S. fisheries treaties, international law and the Law of the Sea negotiations. In response to this testimony, you have requested interested trade groups and others to respond to the statements made by the Senator from Alaska and, accordingly, the Institute is pleased to present our comments.

In an October 30 letter addressed to you, the Institute indicated why S. 961 and the companion House legislation H.R. 200, would have a positive impact on the course of the Law of the Sea negotiations and would assist U.S. distant water fishing fleets. At this time, NFI will address the specific issue of the effect of S. 961 on the salmon industry.

Subsequent to the Senator's testimony, NFI conducted a telephone survey of companies in the Institute located in the Pacific Northwest and the State of Alaska. As a result of this survey, we can affirmatively state to the Committee that our members do not share the views expressed by Senator Gravel in his testimony and believe that the adoption of this legislation will benefit the domestic salmon industry.

Specifically, the Institute and its members do not believe that the adoption of this legislation will result in extensive fishing for salmon by the Japanese east of the abstention line. NFI believes that the Japanese urgently need the ground fish resources which would be located within the 200 mile fisheries zone and we do not believe that the Japanese will risk the loss of this important resource in order to catch immature salmon in the area east of the abstention line which would be outside the 200 mile zone.

In fact, a strong argument can be made that the ability of the United States to effectively manage our ground fish resources will provide this Government with an effective method by which we can reduce the present illegal catch by the Japanese east of the abstention line. It cannot be argued that such actions do not presently occur and that there is no effective method to enforce fishing activities in the area of the abstention line. We believe that the ability to effectively manage our ground fish resources and regulate foreign vessels will in fact, assist in the enforcement of the 1952 Treaty and will not lead to the abrogation of that treaty by the Japanese government.

The Institute is of the understanding that the Government of Alaska takes a similar position and in a recent telephone conversation with Governor Hammond, he reaffirmed the position taken by the State of Alaska on international fisheries management. Recently, the Governor testified before the Law of the Sea Advisory Committee, and in his telephone conversation with the Institute, he stated that the position of the State of Alaska had not changed since his testimony on October 20 of this year.

The Institute at this time would like to submit for your consideration a letter received from the Washington Fish & Oyster Company. This contains many urgent reasons in favor of the adoption of this legislation by the Congress. We believe that the letter properly reflects the opinion of many members of the Institute and we trust that you will give it your most careful consideration.

Thank you for the opportunity to present our views regarding the effect of S. 961 on the fishing industry.

Sincerely yours,

GUSTAVE FRITSCHIE,
Director of Government Relations.

WASHINGTON FISH & OYSTER CO.,
Seattle, Wash., November 7, 1975.

Attention: Mr. Lee Weddig.

NATIONAL FISHERIES INSTITUTE,
Washington, D.C.

DEAR LEE: I am continuously disturbed by statements to the press, and testimony before Congress, made by supposedly knowledgeable people, to the effect the United States extension of fisheries jurisdiction will bring about the loss of our resources and in particular loss of jobs in the United States.

If the United States does not promptly assume jurisdiction over the fishery resources within 200 miles and the anadromous fishery resources throughout their range, and manage these resources they may well be lost or irreparably damaged before any action can be effectively taken by a Law of the Sea Treaty. Assuming a Law of the Sea Agreement in 1976, what would be the earliest sufficient nations would ratify the treaty to give it force of international law—four, five, or ten years? Look what happened to the North Pacific halibut resource, which dropped from a catch of 72,000,000 by the United States and Canada in 1960 to the 21,500,000# catch in 1974. This fishery was under intense regulation by the governments of the United States and Canada, but uncontrolled fishing by third parties (much of it in violation of existing treaties) almost destroyed this resource. It will take far longer to rebuild this resource than it took to decimate it. It will also take time to develop the management framework, knowledge, and personnel to manage these resources under extended jurisdiction. These resources cannot wait for an indefinite period, as we must look forward to under the Law of the Sea.

Representative Pritchard's written testimony before the Foreign Relations Committee relating to S-961 on October 31, 1975, very effectively answers the statements regarding the destruction of the North American salmon resources by the Japanese, if we extend jurisdiction. The Japanese need food. They are extremely dependent on fishing as a source of protein. Would they risk the loss of the groundfish production of about 2,000,000 metric tons for the possible increased salmon catch east of the existing abstention line? This question is particularly pertinent when asked in the framework of the future Law of the Sea Agreement which probably would include protection for anadromous fish and 200 miles for other living resources. Japan has and still does take significant amounts of North American salmon west of the abstention line and frequently, her vessels are found taking salmon east of that line. The North American salmon runs continue to decline as a general trend. We have full capability to capture the maximum sustainable yield of salmon. Japan's high seas catch of immature fish cannot be reconciled with the good fisheries management and must be reduced for good management practices to be effective.

What share of the Groundfish Resources of the United States zone should the United States allocate to Japan, if Japan has been plundering the salmon resources between the extension of jurisdiction by the United States and effectiveness of the Law of the Sea Treaties?

We must continue to emphasize that the United States extension of jurisdiction is to preserve the resources and manage them until the Law of the Sea can be effective. I see no loss of jobs under these regulations. In fact, I see a definite increase in employment due to the management necessity. We would appreciate your incorporating our thinking into your testimony in favor of S-961.

Sincerely yours,

W. S. GILBERT.

APPENDIX IV

REPORT ON FOREIGN FISHING OFF U.S. COASTS

Nine hundred and ninety-six (996) foreign fishing and fishery support vessels were reported operating off the coast of the United States in June 1975, by Special Agents of the National Marine Fisheries Service and U.S. Coast Guard personnel conducting joint fishery enforcement patrols. This total is an increase of 209 vessels from May 1975, and an increase of 80 vessels from June 1974. Activity by Region was reported as follows:

IN THE NORTHWEST ATLANTIC

A total of 204 foreign fishing and fishery support vessels from the Soviet Union (160), Poland (9), Bulgaria (4), Japan (4), Spain (24), and one (1) each from the Republic of Ireland, Italy and the German Democratic Republic was sighted off the New England and Middle Atlantic coasts during June 1975. This is an increase of 21 vessels over May 1975, and 45 vessels more than in June 1974. Much of this month's increase was due to the deployment of Spanish cod fishing pair trawlers to Georges Bank, and of squid fishing vessels returning to the Middle Atlantic under their government's authorized second campaign to harvest the remaining 1,600 tons of their 1975 squid quota. In response to continued poor catches, the Soviet purse seining fleets decreased by about 20 percent. However, this reduction in seiners was offset by a 70 percent (28 vessels) increase in the number of large factory stern trawlers which were successful in harvesting red and silver hake on the eastern slopes of Georges Bank. Polish fleets were reduced to the lowest level of the year, consisting mostly of small numbers of side trawlers fishing for squid. A single East German vessel returned to areas off the New England coast, presumably to engage in exploratory fishing.

The Soviet Union remained predominant among foreign fleets representing nearly 75 percent of all foreign vessels. Soviet vessels were identified as 29 factory stern trawlers, 19 medium freezer stern trawlers (eight of which were rigged as purse seiners), 86 medium side trawlers (80 of which were rigged as purse seiners), 13 factory base ships, nine refrigerated fish transports and supply vessels, two tankers, one tug, and one fisheries enforcement vessel.

OFF SOUTHERN NEW ENGLAND AND GEORGES BANK (SEE CHARTLET NO. 1)

Soviet Union.—Soviet fleet concentrations totaling 154 vessels were dispersed from east and southeast of Nantucket Island to the eastern and northern slopes of Georges Bank. As was the case in May 1975, Soviet purse seining fleets were characterized by their frequent mass movements between areas of Georges Bank and the lower Bay of Fundy, off southwest Nova Scotia.

A change noted this month was that substantially larger stern trawler fleets (35-40 vessels) were using bottom-tending trawl gear for red and silver hake along the eastern slope of Georges Bank between Corsair and Lydonia Canyons.

East Germany.—After an absence of East German vessels in May 1975, one stern trawler returned and fished among Polish vessels south of Martha's Vineyard and Nantucket Island. The vessel was fishing for squid which will presumably be sold to Spain.

Bulgaria.—A total of four stern trawlers was sighted in June 1975, compared to five vessels in May 1975 and two in June 1975.

These vessels worked most of the month among Soviet stern trawlers fishing for hake along the Southeast Part of Georges Bank.

Spain.—As anticipated, Spain increased its efforts in June, deploying 18 pair trawlers to Georges Bank.

For much of the month, the pair trawlers were sighted fishing for large cod on the Northern Edge and Northeast Peak of Georges Bank.

In June 1975, inspectors boarded 10 Spanish pair trawlers operating on the Northeast Peak of Georges Bank in a cod fishery. Observed catches averaged over 95 percent cod, with a small haddock bycatch. Most vessels were properly logging discarded bycatch.

Of the above vessels, three had over 100 tons of cod on board, two had nearly 400 tons each. These catches appear to exceed the Spanish-imposed limit of 100 tons on each vessel taking cod in Sub-area 5, in 1975. However, Spanish vessels were operating on the Northeast Peak, which straddles ICNAF Sub-areas 4 and 5. While it seems relatively easy for Spanish vessels to record catches taken in either of these two subareas, their logbook entries, for the second consecutive month failed to do so. Hence, it was not possible for inspectors to cite these vessels for regulatory infringements.

MID-ATLANTIC (SEE CHARTLET NO. 2)

Only 18 foreign fishing vessels remained in the Middle Atlantic in June 1975, compared to 28 vessels in May 1975 and four in June 1974.

Soviet Union.—Six Soviet vessels, four medium side trawlers and two stern trawlers, were reported fishing for squid at several locations east and southeast of Cape May, New Jersey.

Spain.—Six Spanish vessels were sighted along the 50–75 fathom curves east and southeast of Cape May, New Jersey. A single Spanish trawler was boarded and observed fishing for loligo squid.

Japan.—Three stern trawlers and one squid jigger were sighted in the Mid-Atlantic in June 1975, compared to five vessels in both May 1975 and two in June 1974. The stern trawlers, fishing for squid, were widely scattered along the 75–80 fathom edge from Cape May, New Jersey, to Cape Charles, Virginia.

The lone Japanese squid jigger was sighted several times in the month along the Continental Shelf off the Virginia Capes.

The Japanese stern trawler *Ookuni Maru* (TT1–5) was boarded while fishing east of Ocean City, Maryland. Catches in an observed trawl contained one ton each of loligo squid and butterfish. Total catch on board was listed as 90 tons of loligo squid and two tons of butterfish taken in 23 days on the fishing grounds. Dogfish, skates, and other minute amounts of mixed species were not logged. The captain stated that only several fish of these species are taken in each trawl and, being considered incidental, were not logged as discards. The vessel will depart ICNAF areas in June 1976.

Italy.—One Italian stern trawler fishing for squid was sighted at numerous locations east and southeast of Cape May, New Jersey in June 1975.

Ireland.—The Irish stern trawler *Erin Fisher* continued fishing among Japanese vessels off New Jersey.

International Inspections.—In June 1975, a total of 45 foreign and domestic fishing vessels (20 Soviet, 12 Spanish, three Polish, two Canadian, five United States, and one each from East Germany, Italy, and Japan) was boarded by United States Inspection Officers under the ICNAF and CSFR enforcement schemes.

1. *Disposition of F/V WICKO, SWI-175, Swinoujscie, Poland.*—The release of the vessel was effected June 6, 1975, subsequent to the Master's conviction in U.S. District Court, District of New Jersey, for illegally taking U.S. lobsters in violation of 16 USC, Section 1081, 1082, and 1085. Captain Andrej Golba paid a \$25,000 fine, and the vessel's owners satisfied a \$125,000 civil judgment against the vessel itself. F/V *Wicko* departed the port of Newark, New Jersey, the same day.

2. *Disposition of F/V ARGONAVT, Burgas, Bulgaria.*—On July 10, 1975, the Bulgarian Government paid \$425,000 to the U.S. District Court, District of Massachusetts in settlement of the criminal charge and civil allegation pending against the Master and fishing vessel. The F/V *Argonavt* departed Boston Harbor, Massachusetts, within hours of the settlement, after having been berthed at the Boston Coast Guard Base since June 11, 1975, subsequent to the seizure by a USCG–NMFS Enforcement team on Southeastern Georges Bank for taking lobsters, a creature of the U.S. Continental Shelf.

OFF THE SOUTH ATLANTIC AND GULF COASTS (SEE CHARTLET NO. 3)

Fifty foreign fishing and support vessels were reported in the Gulf of Mexico during June 1975. Thirty-three of the vessels were Cuban, 13 were Japanese, two were Mexican, and two were Canadian. A number of Soviet vessels, which are not included in this report, were observed transiting the Florida Straits.

The 32 Cuban trawlers and one base ship were reported operating 13 to 30 nautical miles offshore between Matagorda Bay and Aransas Pass, in June 1975. The Cuban vessels fished off Texas the entire month.

The 13 Japanese longliners were reported operating in the Gulf of Mexico along the 1,000 fathom area during the entire month.

On June 4, 1975, two Mexican shrimp trawlers entered Brownsville, Texas, to undergo engine repairs. The vessels departed on June 5, 1975.

On June 8, 1975, two Canadian purse seiners stopped in New Orleans for supplies and were reportedly going to do some exploratory fishing in the Gulf of Mexico before returning to Canada. The vessels departed New Orleans on June 11, 1975.

OFF CALIFORNIA, OREGON, AND WASHINGTON (SEE CHARTLET NO. 4)

During June 1975, 111 fishing, support, research and whaling vessels from four nations were observed off the Pacific coast. This is an increase of four over May 1975, and an increase of 36 over June 1974.

Soviet Union.—The Soviet hake fleet remained near last month's level, with 68 stern trawlers, 16 support vessels, and two research vessels engaged in the fishery. The fishing continued a gradual shift to the north, with slightly more effort observed off Oregon than off northern California. Soviet vessels were deployed heavily along the California coast northward from Cape Mendocino and along Oregon as far north as Tillamook Head. Areas of greatest concentrations were from Trinidad Head to St. George Reef and Heceta Banks. Several large hauls of hake were observed early in the month, but catches in mid and late June were reported as small to moderate.

During the last week of June, two Soviet whale killers were observed off northern California. These vessels are part of a Soviet whaling fleet that is operating 50 or more miles offshore. However, as of month's end, the whaling factory vessel had not been sighted.

Poland.—In June 1975, the Polish hake fleet increased slightly, reaching 15 stern trawlers and 1 transport. For the most part, this fleet remained off northern California, although several vessels fished periodically off the Oregon coast. Catches by the Polish fleet were reported as moderate. Late in the month, two Polish stern trawlers were observed off northern Washington, however, they were north of the 48.30N closed area.

Japan.—Throughout the month, one Japanese stern trawler fished in the vicinity of San Francisco. Another stern trawler fished off central Oregon until late June when it joined the other vessel off San Francisco. Early in the month, this latter vessel was observed nested with a transport off Oregon. No catches were observed aboard the Japanese vessels.

South Korea.—The number of South Korean longliners increased to four during June 1975. Three of these vessels fished black cod with longlines off the Washington coast. The fourth vessel fished off northern Oregon and southern Washington using pot gear.

OFF ALASKA (SEE CHARTLET NO. 5)

A total of 631 foreign fishing and associated support ships (559 Japanese, 67 Soviet, four South Korean, and one Taiwanese) engaged in fisheries off Alaska in June 1975. That was an increase of 147 from the previous month and 41 more than in June 1974.

Soviet Union.—The 67 Soviet vessels included 18 stern trawlers, 39 medium trawlers, two factory ships, four refrigerated transports, two tugs, one patrol ship, and one research vessel. That was the same number as the previous month and 34 more than in June 1974. The number of ships present simultaneously declined slightly during the month from 65 to 57.

The Soviets continued to concentrate their efforts in the central Bering Sea on and along the Continental Shelf edge northwest of the Pribilof Islands. Other efforts occurred in the eastern Aleutian Islands and in the Gulf of Alaska.

The fleet in the central Bering Sea declined from 56 to 43 vessels at mid-month and remained at that level during the last half of June. The 39 trawlers and four support vessels continued to shift their efforts northwestward during June and by month's end were concentrated far northwest of the Pribilof Islands. Alaska pollock appeared to be the target species of the trawlers.

The effort in the Gulf of Alaska continued on Albatross and outer Portlock Banks south and east of Kodiak Island in the central Gulf. Six to eight trawlers fished throughout the month and were supported by one refrigerated transport vessel.

The efforts along the Aleutian Islands was centered north of the Fox Islands at the eastern end of the Chain. Five trawlers fished primarily for flatfish in that area during the month and were supported by one tug. In mid-June 1975, one Soviet research trawler operated briefly in the central Aleutian Islands area.

Japan.—The 559 Japanese vessels engaged in fisheries off Alaska included 17 factory ships, 19 refrigerated transports, 51 stern trawlers, 101 medium trawlers, 332 salmon gill-net vessels, 10 longliners, seven herring gill-net vessels, 12 crab catcher vessels, five independent crab vessels, three patrol ships, one tanker, and one research vessel. That was an increase of 148 vessels from the previous month and an increase of 32 vessels from June 1974. The number of ships present simultaneously varied from 540 to 527. This large increase reflected the arrival of all 10 Japanese high seas salmon fleets to the Alaskan area.

Trawl fisheries were conducted by independent stern trawlers along the Continental Shelf edge in the Gulf of Alaska, along the Aleutian Island Chain and in the Bering Sea as well as a major effort by factory ships on and along the Continental Shelf edge in the central Bering Sea during June 1975.

In early June, a fifth factory ship fleet arrived on the grounds in the central Bering Sea northwest of the Pribilof Islands bringing the total number of trawlers to 101. The fleets were supported by five refrigerated transport vessels and one patrol ship during the month. Alaska pollock is the target species of the fleets.

Thirty independent stern trawlers supported by three refrigerated transports and one tanker fished along the Continental Shelf edge in the eastern and central Bering Sea. The vessels were scattered from west to far northwest of the Pribilof Islands.

The number of independent stern trawlers fishing along the Aleutian Islands increased sharply in late June from 8 to 13 vessels. At that time the vessels also shifted their primary effort from the Seguam-Amukta Passes area of the central Aleutians to the vicinity of the Rat Islands in the western Aleutians.

The effort in the Gulf of Alaska decreased from the previous month's level of 13 to 8 independent stern trawlers during June. The vessels supported by one refrigerated transport vessel, fished throughout the Gulf with a major effort being between Yakutat and Middleton Island in the central Gulf.

Ten longline vessels fished for sablefish in the Gulf of Alaska and south of the eastern Aleutians during June. The major effort was in the Gulf where fishing was concentrated off southeastern Alaska with lesser efforts conducted throughout the central and western Gulf. Early in June, two longline vessels fished briefly south of the eastern Aleutians.

The annual Japanese crab fishery in the eastern Bering Sea involving two fleets totalling 15 vessels ended their operations on June 14 after reaching the quota of tanner crabs allowed by the U.S.-Japan crab agreement. The number of independent crab vessels fishing in the central Bering Sea for tanner crabs west of 175°W increased from three to five by month's end.

The herring gillnet fishery along the western Alaska coast ended during the first week of June 1975. Although the vessels reportedly had been making good catches, the Bering Sea pack ice prevented them from following the herring as they migrated northward to Norton Sound.

During the month of June, all 10 Japanese high seas salmon fleets operated in the Alaskan area. The fleets, composed of 332 gill-net vessels, were supported by 10 refrigerated transport vessels and one patrol ship during the month. In early June, the fleets fished south of the Aleutian Island Chain and by mid-June some fleets had moved to the Bering Sea with four fleets fishing there at month's end. One Japanese research vessel conducted operations in the vicinity of the salmon fleets.

South Korea.—During June 1975, four South Korean vessels fished off Alaska. One stern trawler fished south of the eastern Aleutian Islands until mid-month and then shifted operations to the Bering Sea northwest of the Pribilof Islands. Two longline vessels were joined by a third vessel at mid-month and fished for sablefish primarily along Albatross Bank south of Kodiak Island.

Taiwan.—The one stern trawler, which had been fishing for groundfish in the Bering Sea west of the Pribilof Islands, terminated operations at mid-month and returned to its home port.

TABLE 1.—FOREIGN FISHERY VESSELS OPERATING OFF U.S. COASTS DURING JUNE 1975 (EXCLUDING DUPLICATE SIGHTINGS); BY TYPE OF VESSEL AND COUNTRY

Fishing grounds	Stern trawlers ¹	Medium trawlers ²	Other fishing vessels	Processing and transport vessels	Support vessels ³	Research vessels ⁴	Total
Off Pacific Coast:							
Off Alaska:							
Japan.....	51	101	366	36	4	1	559
Soviet Union.....	18	39		6	3	1	67
Republic of Korea.....	1		3				4
Republic of China (Taiwan).....	1						1
Poland.....							
Other.....							
Total.....	71	140	369	42	7	2	631
Off Pacific northwest:							
Japan.....	1			1			2
Soviet Union.....	37			8	6	1	52
Poland.....	2						2
German Democratic Republic.....			4				4
Republic of Korea.....							
Other.....							
Total.....	40		4	9	6	1	60
Off California:							
Soviet Union.....	31		2	1	1	1	36
Japan.....	1						1
Poland.....	13			1			14
Federal Republic of Germany (FRG).....							
Other.....							
Total.....	45		2	2	1	1	51
In the Gulf of Mexico:							
Mexican.....			2				2
Cuban.....			32		1		33
Soviet.....							
Japanese.....			13				13
Other.....			2				2
Total.....			49		1		50
Off Atlantic Coast:							
Soviet Union.....	40	6	88	22	4	10	160
Poland.....	1	7		1			9
East Germany.....	1						1
Federal Republic of Germany.....							
Bulgaria.....	4						4
Romania.....							
Spain.....	4	2	18				24
Japan.....	3		1				4
Italy.....	1						1
Canada.....	NA	NA	NA	NA	NA	NA	NA
Other (Ireland).....	1						1
Total.....	55	15	107	23	3	1	204
Grand total.....	211	155	531	76	18	5	996

¹ Includes all classes of stern factory and stern freezer trawlers.² Includes all classes of medium side trawlers (nonrefrigerated, refrigerated, and freezer trawlers).³ Includes fuel and water carriers, tugs, cargo vessels, etc.⁴ Includes exploratory, research and enforcement (F) vessels.⁵ Longliner and pot fishing vessels.⁶ Whale killer.⁷ Shrimp trawler.⁸ Canadian purse seiners.⁹ Base ship.¹⁰ Inspection vessel.¹¹ Pair trawlers.¹² Squid jigger.

TABLE 2.—FOREIGN FISHERY VESSELS OPERATING OFF THE U.S. ATLANTIC COAST DURING JUNE 1975 (EXCLUDING DUPLICATE SIGHTINGS); BY TYPE OF VESSEL AND COUNTRY

Fishing grounds	Stern trawlers ¹	Medium trawlers ²	Other fishing vessels	Processing and transport vessels	Support vessels ³	Research vessels ⁴	Total
Off New England (ICNAF subarea 5):							
Soviet Union.....	38	2	⁵ 88	22	3	⁶ 1	154
Poland.....	1	7		1			9
East Germany.....	1						1
Bulgaria.....	4						4
Romania.....							
Cuba.....							
Federal Republic of Germany.....							
Spain.....			⁷ 18				18
Japan.....							
France.....							
Italy.....							
Norway.....							
Greece.....							
Canada.....							
Other.....							
Total.....	44	9	106	23	3	1	186
In the Mid-Atlantic bight (ICNAF 6):							
Soviet Union.....	2	4					6
Poland.....							
East Germany.....							
Bulgaria.....							
Romania.....							
Italy.....	1						1
Federal Republic of Germany.....							
Spain.....	4	2					6
Japan.....	3		⁸ 1				4
Ireland.....	1						1
Total.....	11	6	1				18
Off the Southern Atlantic Coast (from Cape Hatteras to Florida):							
Soviet Union.....							
Poland.....							
East Germany.....							
Spain.....							
Japan.....							
Other.....							
Total.....							
Grand total.....	55	15	107	23	3	1	204

¹ Includes all classes of stern factory and stern freezer trawlers.² Includes all classes of medium side trawlers (nonrefrigerated, refrigerated, and freezer trawlers).³ Includes fuel and water carriers, tugs, cargo vessels, etc.⁴ Includes exploratory, research and enforcement (E) vessels.⁵ Rigged as purse seiners.⁶ Inspection vessel.⁷ Pair trawlers.⁸ Squid jigger.

Chartlet # 1

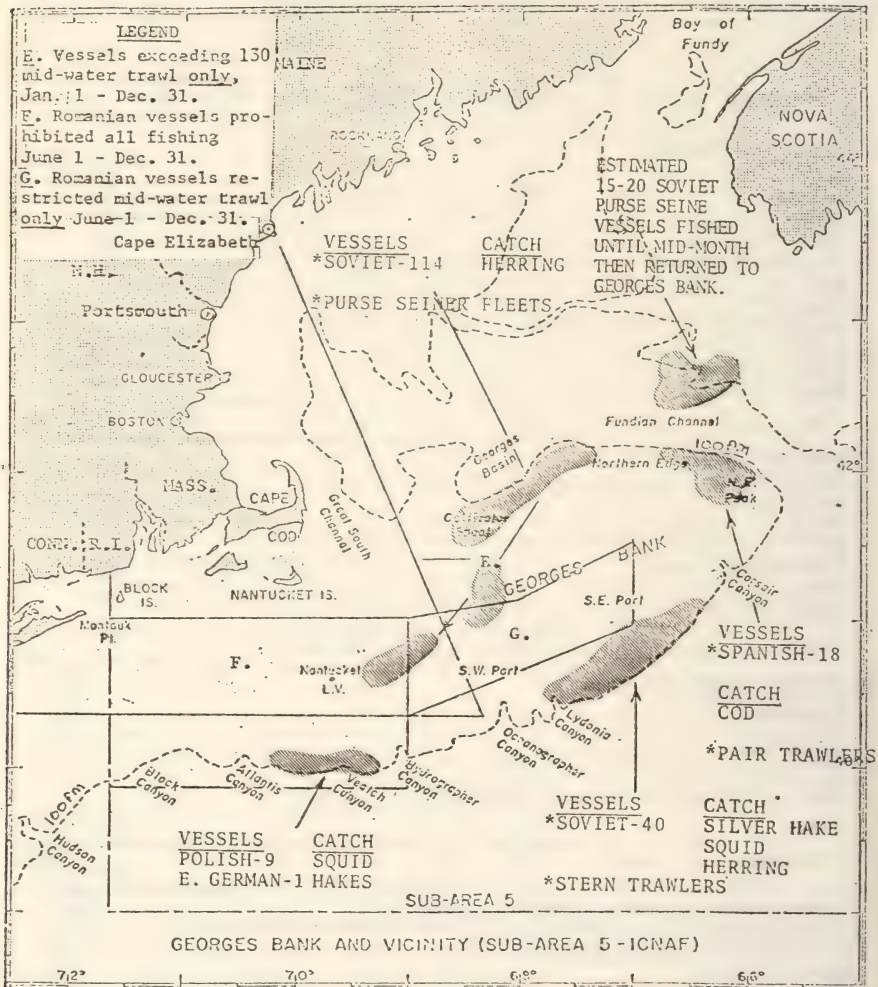


Fig. - Foreign vessels in the Northwest Atlantic in June 1975 by country, number of vessels, principal fishing grounds, and the species fished.

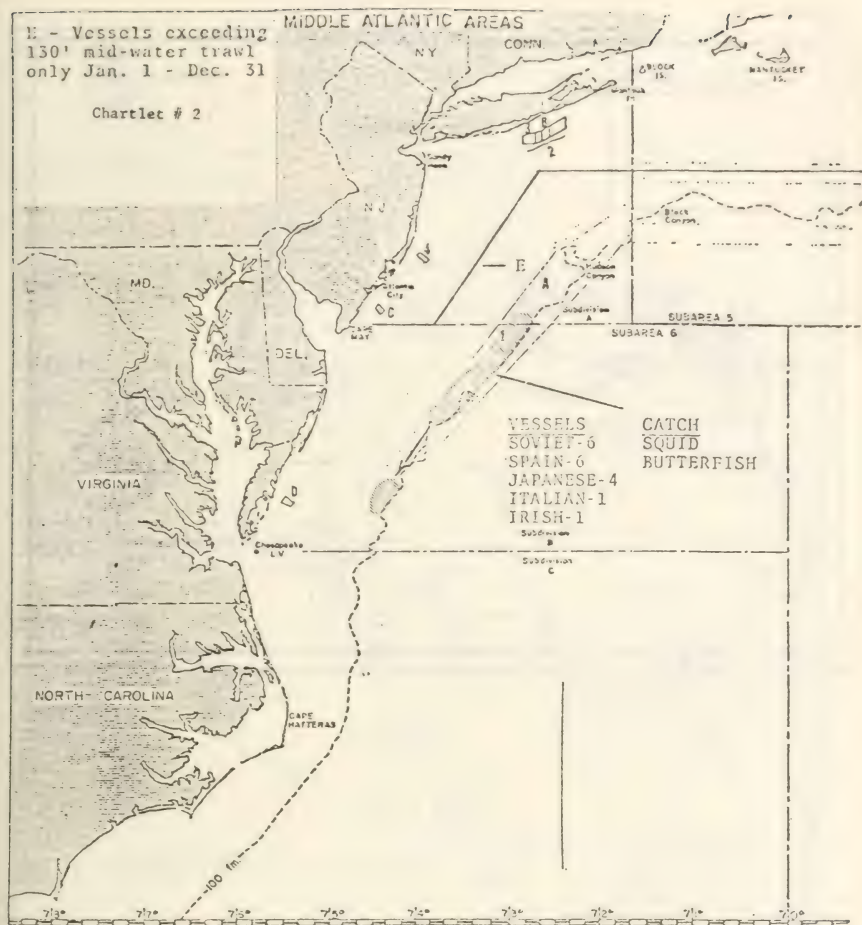
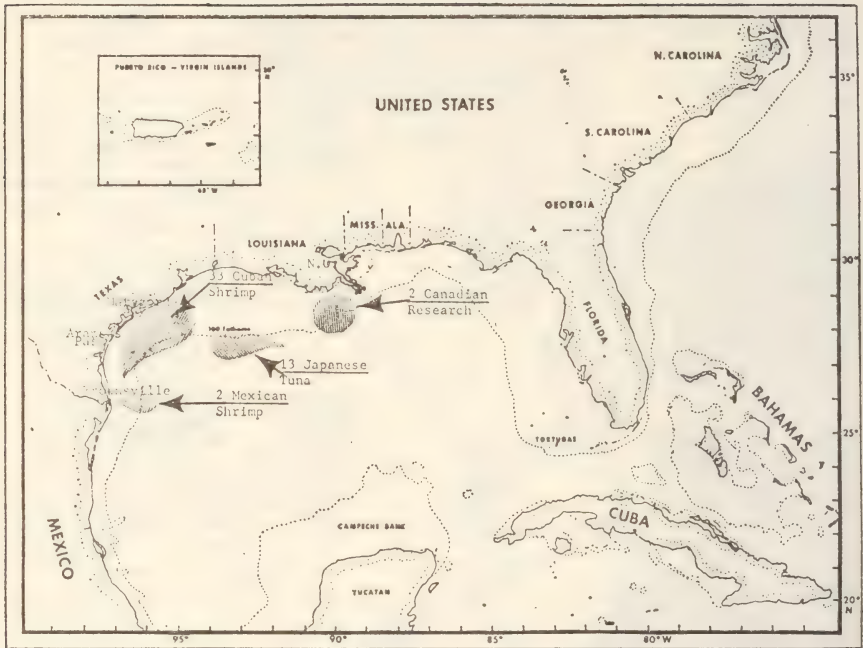


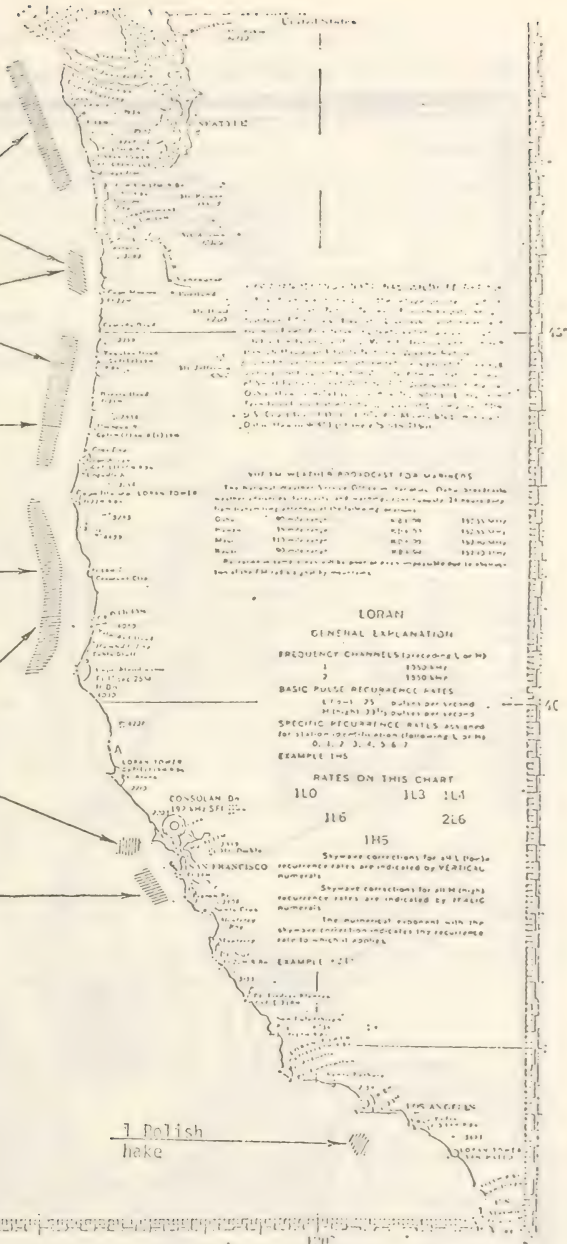
Fig. - Foreign vessels in the Middle Atlantic in June 1975 by country, number of vessels, principal fishing grounds, and the species fished.

Chartlet # 3

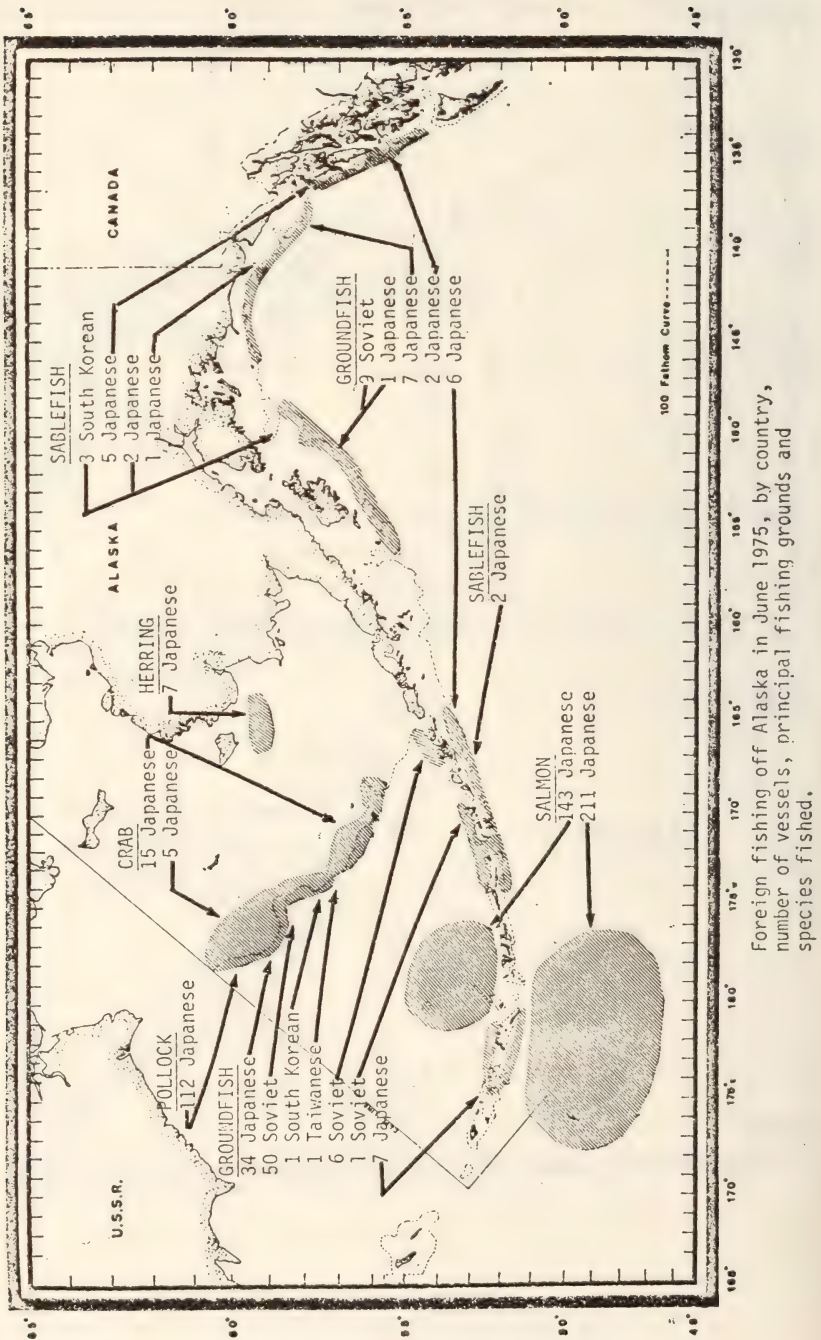


1 Polish
hake

1995



Chartlet # 5



APPENDIX V

A REPORT TO THE PRESIDENT AND THE CONGRESS

(BY THE NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE)

(FOURTH ANNUAL REPORT, JUNE 30, 1975, WASHINGTON, D.C.)

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

William J. Hargis, Jr., *Chairman*, Director, Virginia Institute of Marine Sciences;
Donald L. McKernan, *Vice Chairman*, Director, Institute of Marine Studies,
University of Washington.

William C. Ackermann, Chief, Illinois State Water Survey.

Perkins Bass, Sheehan, Phinney, Bass and Green, Petersborough, New Hampshire.

Robert F. Bauer, Chairman of the Board, Global Marine, Inc.

Charles A. Black, President, Mardela Corporation.

Marine A. Dubs, Director, Ocean Resources Department, Kennecott Copper Corporation.

Arthur Godfrey, Arthur Godfrey Productions.

Charles L. Hosler, Jr., Dean of Earth and Mineral Sciences, Pennsylvania State University.

Thomas L. Kimball, Executive Vice President, National Wildlife Federation.

Helmut Landsberg, Acting Director, Institute for Fluid Dynamics and Applied Mathematics, University of Maryland.

Edwin A. Link, Harbor Branch Foundation.

Harold E. Lokken, Manager, Fishing Vessel Owners Association, Inc.

John W. Luhning, President, Southwestern University.

Arthur E. Maxwell, Provost, Woods Hole Oceanographic Institution.

Thomas S. Moorman, Jr. Executive Vice President/Programs Air Force Academy Foundation, Inc.

Grover E. Murray, President, Texas Tech University Complex.

William A. Nierenberg, Director, Scripps Institution of Oceanography.

Donald B. Rice, President, Rand Corporation.

Clement Tillion, Senator, Alaska State Legislature.

John W. Tukey, Associate Executive Director, Research-Communication Principles Division, Bell Laboratories, and Professor of Statistics, Princeton University.

Winona B. Vernberg, Director, Program for Environmental Health, School of Public Health, University of South Carolina.

Elmer P. Wheaton (Ret.), Vice President, Lockheed Missiles and Space Company.

Executive Director: Douglas L. Brooks.

Staff: Abram B. Bernstein, Bruce W. Norman, John T. Willis, E. W. Seabrook Hull (Consultant).

Supporting Staff: Elizabeth S. Tune (Administrative Assistant), Delphenia W. Brodie, Agnes O. Eley, Louise S. Lucas, Eleanor tum Suden.

Senior Staff Assistant: David A. Katcher

NATIONAL ADVISORY COMMITTEE

ON OCEANS AND ATMOSPHERE,

Washington, D.C., June 30, 1975.

To the President and the Congress:

SIRS: I have the honor to submit to you the Fourth Annual Report of the National Advisory Committee on Oceans and Atmosphere.

The Committee was established by P.L. 92-125, approved on August 16, 1971, and was directed to submit a comprehensive annual report to the President and to the Congress setting forth an overall assessment of the status of the Nation's marine and atmospheric activities.

This report is sent via the Secretary of Commerce as provided for by the statute.

Respectfully,

WILLIAM J. HARGIS, Jr., *Chairman*.

SUMMARY OF RECOMMENDATIONS

NACOA, noting that the Law of the Sea Conference has been unable to come to agreement after a protracted period of preparation and negotiation, and finding that pressure on living resources and the marine environment off our coasts requires urgent action to bring their use under positive rational management, recommends that:

Legislation be enacted asserting United States jurisdiction over resources within a zone, out to 200 miles off the United States coast, which should be identified as the Economic Resource Zone of the United States.

The United States undertake to create within its Economic Resource Zone, as a matter of policy, a model system for rational use of the zone and its resources which incorporates due regard for international obligations.

Management of fisheries within the Economic Resource Zone be based on the principles of conservation and full utilization of living resources, in that order, with preferential rights for U.S. fishing interests, both sports and commercial. Such principles must be based on the maximum biological yield, taking into account economic and environmental factors of concern to the United States within the Economic Resource Zone.

* * * * *

MANAGEMENT OF AN ECONOMIC RESOURCE ZONE

Although the Law of the Sea Conference failed of agreement in 1975, national extension of jurisdiction over fisheries to 200 miles is only a matter of time. We must give thought to the specific of managing an extended resource zone if only to conserve living resources and to develop non-living resources in an environmentally and economically sound fashion. Several classes of activities are involved—those which interact with foreign policy such as fisheries and marine research, and those of purely domestic concern such as the development and transport of the oil and gas resources in the region which reaches out to the edge of the continental margin if beyond 200 miles. There is need to clarify the role of the Federal Government in the management of this zone and to enact legislation which, at the very least, regulates for the general good the activities of our own citizens. We discuss in some detail the relations of coastal zone management to oil and gas development and the informational needs of coastal zone managers.

LAW AND THE SEA

Despite protracted periods of preparation and negotiation the Law of the Sea Conference has been unable to reach agreement. The pressures on the living resources and the marine environment are such that the feeling grows we cannot afford to wait, but must take action now, even if interim. We urge extension of national jurisdiction seaward to 200 miles noting that the United States will gain management jurisdiction over resources of considerable importance.

The first requirement is to identify the key policy issues on which we must take a stand. The United States should establish a model of management for coastal nations. The second is to take a stand that is in our long-range interests as well as in response to our immediate needs and to take it with due regard for the consequences for international affairs.

ISSUES WITH FOREIGN POLICY IMPACT

There are two groups of management issues involved in extended jurisdiction—be it de facto, by international agreement, or by legislation. One has to do with matters primarily domestic but involving foreign policy (fishing, research, deep sea mining); the other has to do with domestic entities only (oil and gas resource development).

Last year at this time we advocated patience with the slow pace of the Conference but not beyond the 1965 Session. Patience has been exhibited. Bills on fisheries management in an extended resource zone and on deep sea mining were poised in various committees of the Congress awaiting the outcome of the meeting in Geneva. The Conference did not produce agreement, and the committees are now working on this legislation. NACOA had advocated patience so as not to press national interests which might jeopardize international agreement over broad ocean areas. Now the issue is how to press national interests yet set an example of international responsibility in those areas over which we assert resource control.

The major new challenge is fisheries management. Instead of the living resources of the sea belonging to no one, a world consensus is developing which would place the exclusive jurisdiction of most fisheries and other living resources with the coastal nation. For the United States, with one of the longest coastlines of any nation and some of the richest fishing areas of the world ocean, this virtual ownership of vast fisheries resources, which may well be capable of producing on the order of ten million tons of food per year, presents a new opportunity for our people and a new responsibility for our Government.

Many of our fishery resources have been overfished. Some of the overfishing has been caused by U.S. fishermen, but in recent years serious depletion of some of the largest and most important resources found off our coast is traceable to the influx of hundreds of foreign fishing vessels.

The challenge is to initiate a new management program which stresses the conversion and rational allocation of these resources. A wise and forward looking program will rehabilitate our domestic fisheries while permitting controlled fishing by foreign fleets on those stocks not used or not fully used by U.S. fishermen.

The National Marine Fisheries Service of NOAA, in response to a recommendation from NACOA, has been developing a National Plan for Marine Fisheries. The Committee has had an opportunity to advise the Service, and we have been briefed on the development of the Plan from time to time. While the final version has not been completed, NACOA approves the broad approach being taken. We believe that this Plan, in conjunction with national legislation asserting jurisdiction over the living resources of a 200-mile Economic Resource Zone, and establishing some effective national control over fishing in this Zone by U.S. and foreign fishermen, will for the first time in our history, give our Nation and fishermen a greater opportunity to benefit economically and increase our food supply from these resources, while at the same time place on our Government the obligation to conserve and wisely use our fisheries.

Current fragmentation of authority between the States and the National Government must be corrected. This can be done, NACOA believes, by greater cooperation between the Federal Government and the States. Management should be lodged to a considerable degree at the State or local level but in compliance with national standards developed throughout the country. This would permit regional control to exist as long as country-wide standards were observed. Primary consideration of fishery management plans should normally begin in the various coastal regions but should not preempt national or federal action when this seems in the Nation's interest.

The Plan must take into account the special management requirements of highly migratory species such as tuna and must provide for protection and control of anadromous species, such as salmon, which migrate far beyond the 200-mile limit. This means that tuna-like species of fish must continue to be managed through international and multinational agreements. The opportunity for continued access to those resources must be afforded our fishermen. At the same time our program must protect both Atlantic and Pacific salmon since they migrate far to sea beyond the 200-mile Economic Resource Zone.

The proposed management of fisheries should follow certain principles:

Management should be by species wherever possible, and the jurisdictional base should extend throughout the areas of major economic distribution.

Initially, management should encompass only the more important species.

Continuing and effective monitoring of these species is necessary.

Harvesting, both sport and commercial, should be limited to the amount which may be taken without endangering the productivity of the resource being managed.

Full use of the resources located off our coast must be permitted, including use by foreign fishermen where our fishermen are not fully utilizing the allowable annual catch and where such use does not seriously interfere with the conservation of other fish stocks of importance to the United States. As our domestic capability to use a resource increases, it is understood that foreign fishing for those species will be reduced. Our Government must also negotiate with those countries off whose coasts our fishermen fish in order to provide continued access by U.S. fishermen.

* * * * *

MAGNUSON FISHERIES MANAGEMENT AND CONSERVATION ACT

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE

ON

S. 961

TO EXTEND, PENDING INTERNATIONAL AGREEMENT, THE
FISHERIES MANAGEMENT RESPONSIBILITY AND AUTHOR-
ITY OF THE UNITED STATES OVER THE FISH IN CERTAIN
OCEAN AREAS IN ORDER TO CONSERVE AND PROTECT
SUCH FISH FROM DEPLETION, AND FOR OTHER PURPOSES



OCTOBER 7 (legislative day, SEPTEMBER 11), 1975.—Ordered to be printed

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MAGNUSON FISHERIES MANAGEMENT AND CONSERVATION ACT

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Mr. MAGNUSON, from the Committee on Commerce,
submitted the following

REPORT

[To accompany S. 961]

The Committee on Commerce, to which was referred the bill (S. 961) to extend, pending international agreement, the fishery management responsibility and authority of the United States over fish in certain ocean areas in order to conserve and protect such fish, and for other purposes, having considered the same, reports favorably thereon with an amendment [and an amended title] and recommends that the bill as amended do pass.

PURPOSE

[Sec. 2] The purpose of the Magnuson Fisheries Management and Conservation Act is to protect and conserve valuable and necessary fishery resources. Fishery resources, which contribute to the Nation's food supply, economic strength, health, and recreation, are today threatened, and the Nation's fisheries are depressed industries, because of overfishing, and because of the absence of adequate fishing management and conservation practices and controls.

BRIEF DESCRIPTION

The bill seeks to restore and maintain the fisheries by—

(1) granting the United States exclusive fishery management jurisdiction (A) within a "fishery conservation zone" that would extend 200 nautical miles from the Nation's coasts [Sec. 101], (B) over anadromous species of fish (*e.g.* salmon) that spawn in U.S. rivers and streams [Sec. 102(2)], and (C) over U.S. Continental Shelf fishery resources [Sec. 102(3)] (title I): and

(2) establishing and enforcing a national fishery management program [Secs. 301; 302; 303; 304; 305] (title II).

Title I is a temporary law title designed to meet the emergency situation which exists (and which will continue to exist until agreement is reached) because of the failure of the first and second sessions of the U.N. Law of the Sea Conference in Caracas and Geneva to reach international agreement on nation-state jurisdiction over fishery resources. [Sec. 401] As soon as a Law of the Sea treaty (or similar agreement) is signed by the United States and made effective (or provisionally applied), title I will "cease to be of any legal effect" (section 104). [Sec. 401] The Committee does not intend to interfere with or to preempt pending negotiations aimed at such a treaty, but rather it wants to preserve the fisheries until such time as an international agreement is in force. [Sec. 401] Fishery resources are limited, but renewable. [Sec. 2] If placed under sound management before overfishing has caused irreversible effects, the fisheries can be restored and maintained for the benefit, not only of this Nation, but of all mankind. [Sec. 2] For the United States to procrastinate about the fisheries until agreement is reached on a treaty would be to risk such "irreversible effects". [Sec. 2] Such a postponement would constitute an irresponsible act. [Sec. 2]

The provisions of title I are not only temporary, pending international agreement, but they are also consistent with the developing consensus within the Conference. [Secs. 2(c) (5); 401] The bill establishes a U.S. "fishery conservation zone" which will have the seaward jurisdiction of the coastal States as its inner boundary, and a line 200 nautical miles from the base line from which the territorial sea is measured as its outer boundary. [Sec. 101] Within that zone, the United States would exercise exclusive fishery management authority so long as title I is in effect. [Sec. 102] (But the existing ocean jurisdiction of the United States would be maintained without change for all purposes other than the management and conservation of fishery resources—section 2(c) (1).) [Sec. 2(c) (1)] Under title I, the United States would also exercise exclusive fishery management authority over (1) anadromous species from U.S. rivers and streams through the migratory range of such species, except when they are found within any other nation's equivalent of the U.S. fishery conservation zone [Sec. 101(2)]; and (2) fishery resources found on the Nation's Continental Shelf (as defined in section 3(5)). [Sec. 102(3)]

Title I explicitly provides that highly migratory species of fish (e.g. tuna) are not within the exclusive management authority of the United States (section 101(d) [Sec. 102(3)]). Such species "shall be managed solely pursuant to international fishery agreements established for such purpose." [Secs. 2(b) (2); 102(3)]

Title I further provides for foreign fishing within the U.S. fishery conservation zone, and for anadromous species and Continental Shelf resources. [Secs. 201(a); 204(a)] Foreign fishing is permitted. [Sec. 201] but title I establishes the principle of preferential rights for persons fishing from vessels of the United States. [Sec. 201(a)] Foreign fishing is authorized as to the available surplus, with respect to any applicable stock of fish. [Sec. 201(d)] The Secretary of State is authorized and directed to seek international agreements to effec-

tuates the purpose, policy, and provisions of the bill, and he is to review existing international agreements to determine whether they are consistent with this legislation; if not, the Secretary of State is directed to initiate negotiations to amend or terminate them. [Sec. 202]

The bill also includes a permanent law title, title II. Title II establishes a national fishery management program for the management and conservation of fishery resources. [Secs. 301; 302; 303; 304; 305] This program is premised upon the committee's conclusion that the Nation's fishery resources must be conserved and managed in such a way as to assure that a supply of food and other fish products is available on a continuing basis and so that irreversible or long-term adverse effects on fishery resources or on the marine ecosystem are rendered highly unlikely. [Sec. 2] The best way to achieve these necessary goals is to establish a partnership between the Federal Government and the governments of the coastal States. [Sec. 302]

Title II sets forth certain national standards for fishery management and conservation. [Sec. 301] The standards are to be applied by seven newly-created Regional Fishery Management Councils [Sec. 302] (one for each major ocean area) in the development of management plans for each fishery determined to be in need of management and conservation and in the development of recommended regulations for the management and conservation of fish within each Council's geographic area of authority. [Secs. 302; 303] These fishery management plans and recommended regulations are to be reviewed by the Secretary of Commerce to determine whether they are consistent with (A) the national standards, and (B) the provisions and requirements of this bill and any other applicable law. [Sec. 304] If so, the Secretary shall promulgate the management regulations in accordance with section 553 of title 5, United States Code [Sec. 305]; if not, the Secretary shall notify the applicable Council, and necessary changes shall be made by that Council or by the Secretary, and then so promulgated. [Secs. 304; 305] If the Secretary determines that an emergency exists requiring immediate action in the national interest to protect any fishery resources, the Secretary shall, as soon as practicable, prepare and promulgate directly any necessary "emergency management regulations". [Sec. 305(e)] Coastal States and interested members of the general public may nominate fisheries for regulation, by submitting statements to the Secretary. [Sec. 305] The Secretary is directed to review the actions of the Regional Fishery Management Councils and to maintain a fisheries research program. [Sec. 304]

Regional Fishery Management Councils are established [Sec. 302] for each of the following areas. Each Council shall consist of representatives of the States listed in parenthesis:

North Atlantic Council (Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia), for fisheries in the Atlantic Ocean seaward of these States.

South Atlantic Council (North Carolina, South Carolina, Georgia, Florida), for fisheries in the Atlantic Ocean seaward of these States.

Gulf Council (Texas, Louisiana, Mississippi, Alabama, Florida), for fisheries in the Gulf of Mexico seaward of these States.

Pacific Council (California, Oregon, Washington, Idaho, Alaska), for fisheries seaward of California, Oregon, and Washington.

Caribbean Council (Virgin Islands, Puerto Rico), for fisheries in the Caribbean seaward of these States.

North Pacific Council (Alaska, Washington), for fisheries in the northern Pacific Ocean seaward of Alaska.

Outer Pacific Council (Hawaii, American Samoa, Guam, Trust Territories of the Pacific), for fisheries seaward of these States.

Each Council shall "reflect the expertise and interests of the several identified States in the ocean area over which such Council is granted authority". (section 202(b) [Sec. 302(a)]). The President, by and with the advice and consent of the Senate, is to appoint the members of the Regional Councils, upon the recommendations of the Governors of the respective States. The President shall, in addition, appoint a Federal Government employee to serve on each Regional Council, upon the recommendation of the Secretary of Commerce. In addition to identifying fisheries in need of conservation within its area and developing fishery management plans and recommended regulations, each Council shall select a chairman; may appoint an executive director and other staff; shall conduct public hearings on its plans, programs, and regulations; to monitor fishing activity within its geographic area of authority; may carry out such other functions as are necessary and appropriate for the effective management and conservation of fishery resources; and shall report and may make recommendations to the Secretary of Commerce. The Secretary is directed to provide each Council with "such administrative support as is necessary for effective functioning". (section 202(d) [Sec. 302(b) (3)]). Each Council shall also establish a scientific and statistical committee composed of 6 fisheries scientists and experts and the appropriate regional research director of the National Marine Fisheries Service (who shall serve as chairman). Each Council shall further establish a management committee with respect to each individual fishery.

According to the national standards, [Sec. 301] which shall form the basis of all fishery management plans and management regulations, management and conservation measures shall (1) prevent overfishing and assure, on a continuing basis, the optimum yield from a fishery [Sec. 301(1)]; (2) be based upon the best scientific information available [Sec. 301(2)]; (3) regulate an individual stock of fish throughout its range as a unit and regulate interrelated stocks of fish as a unit or in close coordination, to the extent possible [Sec. 301(3)]; (4) not discriminate between residents of different States [Sec. 301(4)]; (5) where appropriate, promote efficiency in the utilizing of fishery resources [Sec. 301(5)]; (6) allow for unpredicted variations in fishery resources and their environment and for contingencies and possible delays in application [Sec. 301(6)]; and (7) where appropriate, minimize research, administration, and enforcement costs and avoid unnecessary duplication. [Sec. 301(7)] The Secretary of Commerce is directed to establish guidelines, based on the national standards, for the Councils to follow in developing their management plans and recommended regulations. [Sec. 301(b)]

Each fishery management plan shall include a description of the fishery involved; a summary of scientific knowledge as to the present and probably condition of this fishery, including the maximum sustainable yield therefrom; an assessment of the capacity of vessels of the United States to harvest the optimum yield from this fishery and projections as to the surplus which can be made available for foreign fishing; and any other relevant material. Management regulations might include provisions establishing zones, fishing seasons, catch quotas, licenses, gear and vessel requirement, access limitations, or other measures. [Sec. 303]

It is inevitable that disputes will arise with respect to fishery management decisions. To meet the need for dispute settlement, the bill establishes a Fishery Management Review Board. The Board, an independent quasi-judicial administrative body, would review disputes between the Secretary and the Regional Councils, as well as other disputes relating to fishery management decisions. [Section not incorporated into Public Law 94-265]

This bill is not intended to extend the jurisdiction of the coastal States over natural resources beyond their seaward boundaries, or to diminish the jurisdiction of these States within their own boundaries. This provision preserves the present division of authority between the States and the Federal Government, as established by the Submerged Lands Act (43 U.S.C. 1301-1343). [Sec. 306]

Title III contains provisions on prohibited acts [Sec. 307] and penalties, [Secs. 308; 309; 310] enforcement, [Sec. 311] and authorizations for appropriations. [Sec. 406] The bill would authorize an amount not to exceed \$22,000,000 to the Secretary of Commerce for 2 years for the execution of his duties under the bill (including support for the Councils and the Review Board), and \$13,000,000 to the Coast Guard for the execution of its enforcement responsibilities. [Sec. 406]

HISTORY AND BACKGROUND

Background and Need

According to traditional international law, each sovereign nation has the same legal right to fish anywhere on the high seas, which are defined as those waters which are outside the territorial waters of any coastal nation. Living resources located in the high seas are considered to be 'common property' resources *i.e.* they are open for fishing by all, and owned by everyone, until in the possession of the catcher.

Until recently, this traditional rule of law created workable arrangement for harvesting the fish resources of the ocean. However, in the last 25 years, as fishery technology has become more sophisticated, and as fishermen have learned that the resources of the sea are not inexhaustible, this rule has been increasingly questioned.

Specific multilateral or bilateral international agreements for the conservation of fisheries are relatively recent developments in the history of the law of the sea. They represent a response to the inability of the traditional rule to conserve fish or to settle controversies between nations.

In 1608, Hugo Grotius, a Dutch lawyer, first enunciated the principle of freedom of fishing on the high seas. For almost 350 years, thereafter, any nation could take fish from the sea with little concern for the future. Fish have traditionally been "hunted" rather than "farmed" as a consequence of their designation as 'common property' and because of the corollary proposition that nobody "owns" fish in the sea. Until relatively recently, management systems were not thought to be needed to protect the continued viability of stocks. About 1940, as fishing efforts around the world intensified, the concept of total freedom of fishing on the high seas began to erode.

The history of the "law of the seas" is viewed by international lawyers as a process of "continuous interaction; of continuous demand and response." It is a developing system: unilateral claims are put forward, the world community weighs the claims, and the world community either accepts or rejects them. International law is also developed through the treaty-making process, either through general international agreement on a particular issue or through bilateral agreements reflecting a general legal trend. Since 1940, the treaty-making process has been active.

A myriad of bilateral or regional arrangements seeking to control fisheries have been negotiated. In 1958 and 1960, attempts were made to reach universal agreement on conservation of the living resources of the sea, in the first and second Law of the Sea Conferences. For the most part, these efforts to achieve clear legal principles regarding ocean fishery resources have been failures in the sense that they have neither halted nor prevented the depletion of some of the most valuable species of ocean fish.

Truman Proclamation

The United States first touched off the most recent series of unilateral declarations of fisheries jurisdiction beyond the territorial sea. President Harry S. Truman, in his "Presidential Proclamation With Respect to Coastal Fisheries in Certain Areas of the High Seas," delivered September 28, 1945, set the stage, as follows:

In view of the pressing need for conservation and protection of fisheries resources, the Government of the United States of America regards it as proper to establish conservation zones in those areas of the high seas contiguous to the coast of the United States wherein fishing activities have been or in the future may be developed and maintained on a substantial scale * * * and all fishing activities in such zones shall be subject to regulation and control. * * * The right of any State to establish conservation zones off its shores * * * is conceded. * * * The character as high seas of areas where such conservation zones are established and the right to their free and unimpeded navigation are in no way thus affected. * * *

The motivating purpose behind President Truman's proclamation was conservation. The proclamation represented a response to the

incursion of Japanese fishermen into the Alaska Bristol Bay red salmon fishery. Chile responded quickly to the Truman Fisheries Proclamation by declaring its own jurisdiction over the seas adjacent to its coast to a distance of 200 miles.

The Truman Fisheries Proclamation was never, however, implemented into law. According to the "Digest of International Law," the proclamation *per se* asserts no claim to exclusive fisheries jurisdiction over high seas fishing areas off the coast of the United States. Instead, it is stated, the purpose of the fisheries proclamation was to establish, as U.S. policy, that where fishing activities were developed or maintained jointly by the United States and other nations, conservation zones would be established—but only pursuant to agreement between the United States and such other nations. The domestic implementation of this proclamation has been mainly through State Department attempts to negotiate international agreements to protect certain species of fish, which were threatened by the Japanese, most notably the salmon. Since that time, except for a treaty with Canada on sockeye salmon concluded in 1930, the United States has negotiated all of the 22 fishery treaties presently in existence (see app. I.). Also, since that time, approximately 36 nations have declared exclusive fisheries zones beyond 12 nautical miles. (See app. II.)

International Treaties

In 1958 the international community negotiated 4 separate treaties regarding the law of the sea. These treaties represented an attempt to codify uncertain international rules. The principal objective of the 1960 meeting was to resolve the issue of the limits of territorial sea or fisheries jurisdiction. The question of fisheries proved to be the point on which nations could not agree, and no specific limits were agreed upon. At that time, the practice of most nations supported a 3-mile territorial limit with a 12-mile fisheries zone. (Now, however, the practice of numerous nations reflects support for a 12 mile territorial with a 200-mile fisheries zone.)

Following the 1958 and 1960 sessions of the first Conference on Law of the Sea, there has been a trend away from a completely laissez-faire policy for fishing on the high seas, particularly in coastal waters outside the territorial sea. This trend was recognized in the Convention on Fishing and Conservation of the Living Resources of the High Seas which was signed by the delegates attending the Conference. Article I of the convention states that the right of all nations to fish on the high seas is a fundamental freedom. But the convention also recognizes the special right of coastal nation to unilaterally adopt conservation measures off its shores, even in areas of the high seas, under certain, yet rather strict, conditions. The extent of coastal nation fishery management authority was the most troublesome issue discussed at the 1958 and 1960 meetings. Broad fishery jurisdiction was not approved, the Convention on Fishing representing the only compromise achievable at the time. Nonetheless, the beginnings of a trend were evident.

Following the Conference, there were new and renewed international disputes over fishing rights: A "lobster war" broke out between France and Brazil over lobster resources on the Brazilian Continental Shelf. The "tuna war" between the United States and several Latin American countries continued over the tuna, which occasionally roam into and through the 200-mile zones claimed by these Central and South American countries. The "cod war" between Iceland and Great Britain heated up, causing great strain within the North Atlantic Treaty Organization. More nations claimed exclusive fishery zones beyond the 12-mile limit. In 1967, the United Nations decided to convene a new Law of the Sea Conference.

The recent International Court of Justice decision (1973), in a controversy growing out of the "cod war" is particularly instructive in evaluating the developing customary international law on fishery jurisdictions. While the Court said that Iceland could not unilaterally exclude British vessels from its claimed 50-mile fishery conservation zone, it did state:

State practice on the subject of fisheries reveals an increasing and widespread acceptance for the concept of preferential rights for coastal States, particularly in favour of countries or territories in a situation of special dependence on coastal fisheries. * * *

The International Court went on to say that the content and scope of this preferential right must be worked out in negotiation with other countries fishing in coastal areas. The Court also emphasized that:

[T]he preferential rights of the coastal State come into play only at the moment when an intensification in the exploitation of fishery resources makes it imperative to introduce some system of catch-limitation and sharing of those resources, to preserve the fish stocks in the interests of their rational and economic exploitation. * * *

International law with regard to the geographical extent of coastal nation fishery jurisdiction is in a state of flux. Some legal experts still claim that the international law limit on coastal nation fishery jurisdiction is 12 nautical miles, but only because they do not feel that enough nations have adopted the 200-mile limit. Few legal experts dispute, however, the fact that the trend is in that direction, and almost all scientists agree on the precarious biological status of many of the world's fish stocks. The Third Law of the Sea Conference, now underway, will, in all likelihood, agree to a coastal fishery jurisdiction limit of 200 nautical miles.

The Third Law of the Sea Conference, and the Position of the United States

In 1968, the United Nations resolved to make yet another attempt at developing a consensus on the law of the sea. On June 20, 1974, after several years of preparatory meetings, the United Nations convened the Third Law of the Sea Conference in Caracas, Venezuela.

A second session convened in 1975 in Geneva, Switzerland. A third session will convene in New York City on March 29, 1976. One of the most contentious issues before the Conference is the extent of jurisdiction coastal nations can exercise over fisheries off their shores.

As a matter of policy, for the last several years the United States has adamantly opposed any extension of fishery jurisdiction beyond 12 miles. The executive branch has generally supported the principle of freedom of the seas as being in the best interest of the Nation. This attitude is attributable to strong naval interests, the need to import large amounts of energy and raw materials by water, and long distance fishing interests, notably tuna and shrimp. Strictly coastal fishing interests have taken a back seat to global interests. Consequently, the U.S. position was, until quite recently, the so-called "species" approach, designed to assert no geographical fisheries jurisdiction. Under this proposal, coastal nations would be given regulatory jurisdiction over coastal and anadromous species of fish, together with preferential rights to as much fish as they can catch. The actual limit of coastal jurisdiction over these species would be determined by the species' location, not by any arbitrary geographical line. In those instances where a coastal nation is not harvesting all of the fish that can be taken, based on maximum sustainable yield, all nations would be permitted to fish for the surplus, after payment of an administrative fee. Migratory species would be placed under management by an international body.

The U.S. "species approach" position generated little support among the international community. Accordingly, in 1974, the United States enunciated a new position. On July 11, 1974, Ambassador John R. Stevenson, Special Representative of the President and U.S. Representative to the Law of the Sea Conference stated the new position as follow, on July 11, 1974:

In the course of listening to and reading the statements made during the last 2 weeks, I have been struck by the very large measure of agreement on the general outlines of an overall settlement. Most delegations that have spoken have endorsed or indicated a willingness to accept, under certain conditions and as part of a package settlement, a maximum limit of 12 miles for the territorial sea and of 200 miles for an economic zone, and an international regime for the deep sea bed in the area beyond national jurisdiction.

The United States has for a number of years indicated its flexibility on the limits of coastal state resource jurisdiction. We have stressed that the content of the legal regime within such coastal state jurisdiction is more important than the limits of such jurisdiction. Accordingly, we are prepared to accept, and indeed we would welcome general agreement on a 12 mile outer limit for the territorial sea and a 200-mile outer limit for the economic zone provided that it is part of an acceptable comprehensive package including a satisfactory regime within and beyond the economic zone and provision for unimpeded transit of straits used in international navigation.

Ambassador Stevenson went on to state further that:

For fisheries, to the extent that the coastal nation does not fully utilize a fishery resource, we contemplate coastal nation duty to permit foreign fishing under reasonable coastal state regulations. These regulations would include conservation measures and provisions for harvesting by coastal state vessels up to their capacity and would include the payment of a reasonable license fee by foreign fishermen. We also contemplated duty for the coastal state and all other fishing states to cooperate with each other in formulating equitable international and regional conservation and allocation regulations for highly migratory species, taking into account the unique migratory pattern of these species within and without the zones.

The thrust of this new position is that the United States is ready to accept, as part of an acceptable overall treaty package, the concept of 200 miles for fishery management jurisdiction. However, acceptance would be conditioned upon satisfactory resolution of a number of issues of high importance to the U.S. delegation. In effect, the United States has conceded that the 200-mile limit will be accepted by the law of the Sea Conference and has turned its attention to defining the relationships between the coastal notions and the international community within that 200-mile limit.

The Geneva session of the conference did not reach agreement but it did produce a "single negotiating text," or draft treaty, to be the basis for negotiations in the next session. The fishery provisions of the single negotiating text, if adopted, would afford the United States more than enough authority to implement S. 961.

ISSUES

(1) The Failure of International Fishery Agreements

The primary goal of any international fishery agreement should be the conservation of fish. With few exceptions, however, such agreements have not achieved this result. Ambassador Donald McKernan (then Special Assistant to the Secretary of State for Fisheries and Wildlife) concluded, in a paper reprinted in "World Fishery Policy" (1972), that "current international, national, and state conservation efforts are not successfully preventing the depletion of fisheries resources of the greatest economic importance."

The normal process of negotiating an international fishery agreement is time consuming and complex. The economic pressure caused by sizeable investments in large fishing fleets makes many nations reluctant to curtail fishing even in face of incontrovertible evidence of stock decline. Most international agreements fail to provide for strong enforcement mechanisms and they are only as powerful as the signatory nations make them. For example, at the annual International Commission for the Northwest Atlantic Fisheries (ICNAF), in June 1975, the members nations agreed to a 650,000 metric-ton quota for all fishing, but excluded the squid quota from this limit. Previously, squid quota (set at 74,000 tons for the coming season) had been included in the overall quota. Northwest Atlantic Fisheries have been in an over-

fished condition for some years. The United States has objected to this quota because (1) at least a full decade would be required for stock recovery at the quota level; and (2) excluding squid from the overall quota would not permit effective control of the incidental catch of fin-fish associated with the squid fishery, which means that more over-fishing would likely occur.

(2) The World Community is Ready to Adopt a 200-Mile Limit but Final Action Will Come Only After a Long Delay

Enactment of the bill is necessary even though the U.S. delegation supports a 200-mile fishery zone and there is a prospect of a law of the sea treaty in the future. Primary among the reasons why S. 961 is considered necessary by the Senate Commerce Committee is that the world community including the United States, seems ready to adopt the 200-mile limit. The real question is *when*. Because of the great potential for delay in concluding a treaty, overfishing is bound to continue without action soon. Moreover, it is possible that long-distance fishing nations which have made substantial investments in large and technologically advanced fleets will become very uncertain about future access to a coastal nation's 200-mile zone, and therefore will step up their efforts to capture fish on the high seas as long as the limits remain narrow.

The committee is quite concerned about the effect of delay in the implementation, ratification, and effective date of any new convention that may be negotiated in the Law of the Sea Conference and which will most likely contain a 200-mile fishery limit provision. If the previous law of the sea treaties are any benchmark, an effective treaty may be several years away. Three of the four conventions signed in 1958 entered into force between 4 and 6 years after signature in Geneva. The fourth, the Convention on Fishing and Conservation of the Living Resources of the High Seas, entered into force only in 1966, fully 8 years after it was signed. In all likelihood the world will be confronted with a substantial interim period between agreement and a final, effective treaty. S. 961 is intended to fill that gap by providing the United States with authority to manage the fish off its shores during this interim period.

(3) International Agreements Are Not Uniformly or Stringently Enforced

In those instances where agreements are reached, the problem of enforcement has been serious. Traditionally, international fishery agreements provide for enforcement by each signatory nation as to its citizens. For example, if a Soviet fleet is operating off U.S. shores pursuant to the ICNAF agreement, it is the duty of Soviet officials to enforce that agreement on their citizens. It is easy to see, however, why a nation which has directed its fishing fleet to return high quotas of fish may not enforce full compliance with international agreements. In many cases, it would appear that effective sanctions are completely lacking and violations often go unpunished by the flag nation. Meanwhile, U.S. fishermen see themselves as being tightly regulated by U.S. officials to comply with U.S. responsibilities under any international agreement.

Furthermore, it is difficult to image that a nation, with a long-distance fishing industry which can operate in any part of the world ocean,

would ever be strongly concerned with conserving fishery resources off another nation's shores. In contrast, fishermen who live a relatively short distance from a fishing ground have a stronger interest in preserving the fish stocks which inhabit the waters near their home. To a large extent, S. 961 is founded on the rationale that a coastal nation has a much greater stake in preserving stocks of fish within 200 nautical miles of its shores, anadromous species of fish, and Continental Shelf fishery resources.

The United States today is a signatory party to 22 international fishing agreements. The United States periodically engages in bilateral and multilateral negotiations with foreign nations to restructure these agreements and to frame new ones for conserving fishery resources. Committee has found that such agreements, while useful and occasionally successful, have not been successful enough in solving the problem of overfishing on a timely and effective basis. Congressional action in the form of S. 961 is therefore very necessary.

(4) The Importance of Fisheries to the United States

According to the National Marine Fisheries Service in the Department of Commerce, 20 percent of all marine fisheries in the temperate and subarctic shelf areas of the world (where most of the fisheries are located) are found within 200 miles of the U.S. coasts. Consequently it can be said that the large stocks of fish inhabiting coastal waters constitute one of the richest natural resources of the Nation.

Despite the presence of this resource, the Department of Commerce, in its draft national fisheries plan, described the following broad trends:

While the world catch continues to increase in response to growing world and U.S. demands for fisheries products, the U.S. catch remains static.

Foreign fishing off U.S. coasts has increased dramatically in recent years with the result that some fish stocks have become depleted.

The United States is becoming increasingly dependent upon imports of fisheries products, a circumstance contributing to the Nation's unfavorable balance of payments.

Large segments of the U.S. harvesting industry are in a chronically depressed state, generally at zero growth or in decline.

Public participation in marine angling and related marine activities is growing steadily and is expected by 1985 to be twice that of 1970.

As United States consumption of fish increases, the United States is forced to rely increasingly on fish imports because American fishing lags behind that of other nations.

While the U.S. share of the world catch of fish has been declining, consumption of fish and fishery products has been increasing. In 1969, residents of the United States consumed 1.94 million metric tons of seafood and in 1970 consumed 2.8 million metric tons, an increase of almost 45 percent. To meet the difference between what domestic fishing fleets catch and the demand for fish products, the United States has imported an expanding amount of fish from other countries. To

give some idea of the growth of imports, in 1950 the United States imported only 23.4 percent of its seafood while in 1972 imports were over 60 percent. Although the United States has only 6 percent of the world's population and catches 2.5 percent of the total world catch of seafood, its residents consume about 7 percent of the world's seafood production. This desire of seafood led to a 1972 adverse balance of payments of \$1.3 billion in fish and fisheries products—a 43 percent increase over 1972 and up 318 percent since 1960.

In short, fisheries play a large role in the national diet, but our domestic fishing fleet is catching less and less of the fish consumed as more and more is being demanded. Meanwhile, the most important and valuable species of fish are being depleted. Dr. Robert M. White, Administrator of the National Oceanic and Atmospheric Administration, has warned that by 1980 the world's fishing fleets are expected to catch 100 million metric tons of fish. According to Dr. White, scientists feel that 100 million metric tons is the maximum number of fish capable of being taken from the sea without biological harm to world breeding stocks. World fleets now harvest, according to the most reliable figures, 70 million metric tons of fish. It is clear to the committee that if we are indeed to prevent the elimination of an important source of protein for the United States and the world, strong action must be taken to prevent further overfishing and to bring technologically advanced fishing efforts under control.

Figures 1 and 2 depict the importance of the United States as a coastal fishing nation and the landings and value of U.S. fish and shellfish.

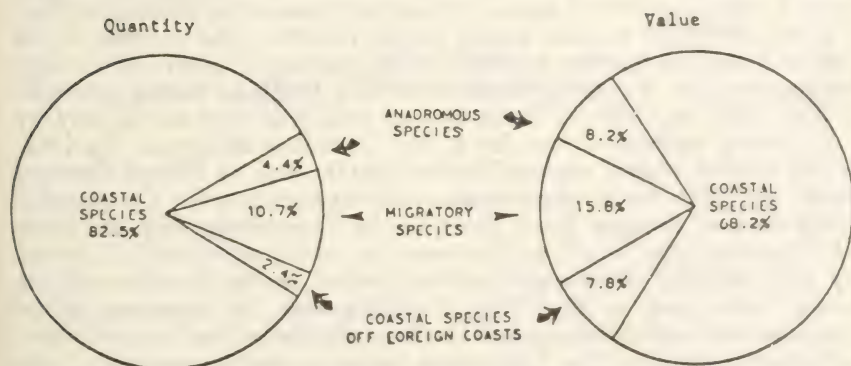


FIGURE 1.—Importance of the United States as a coastal fishing nation.

Fishery	Quantity		Value	
	Million pounds	Percent	Million dollars	Percent
	(1)	(2)	(3)	(4)
Coastal species.....	4,037.7	82.5	522.1	68.2
Anadromous species.....	216.7	4.4	62.8	8.2
Migratory species.....	524.4	10.7	120.6	15.8
Coastal species off foreign coasts.....	115.3	2.4	60.0	7.8
Total.....	4,894.1	100.0	765.5	100.0

FIGURE 2.—Landings and value of U.S. fish and shellfish by major groupings, 1972.

As pointed out earlier, the controversy in the Pacific Northwest concerning the efforts of Japanese vessels to harvest Bristol Bay salmon stocks was the impetus for the Truman Fisheries Proclamation and, in effect, the beginning of serious U.S. concern over foreign fishing efforts off its shores. Following World War II, the United States, Canada, and Japan negotiated and signed the International North Pacific Fisheries Convention, designed to deal, at least in part, with the added pressure on salmon stocks. The salient agreement in this Convention, which still has implications for fishing policies today, was the agreement by Japan to abstain from fishing for salmon east of the 175th west meridian. At that time, it was felt that if the Japanese abstained from catching North American salmon stocks east of that line, the stocks would be protected. However, since then, it has been shown that the salmon range far beyond the boundary line and Japan is able, because of its technologically advanced fishing capabilities, to catch a large number of salmon before they reach the abstention line.

It was not until the late 1950's and early 1960's that the rest of the Nation began to feel the pressure from growing numbers of foreign fishing trawlers. A good example is the New England fishing grounds. Before 1960, the Georges Bank fishing area was used exclusively by U.S. fishing vessels, except for a few Canadian fishermen. In 1961, Soviet fishing vessels reported taking 68,000 tons of fish off Georges Bank. By 1965, Soviet exploitation had expanded to the Continental Shelf area of Georges Bank down to the Chesapeake Bay and their catch reached over a half million tons, far in excess of the U.S. catch. By 1970, several other countries had joined in the harvest and the foreign take grew to more than 1 million tons, far in excess of the allowable harvest recommended by the scientists of the United States and other countries. The U.S. share began to decline and today our fleets take only about 12 percent of the catch in the southern New England area and only 10 percent from the Georges Bank area. (See fig. No. 3.) In 1960, the United States took 92.9 percent of the total catch off the Atlantic coast. By 1972, the U.S. share of the total catch had been reduced to 49.1 percent.

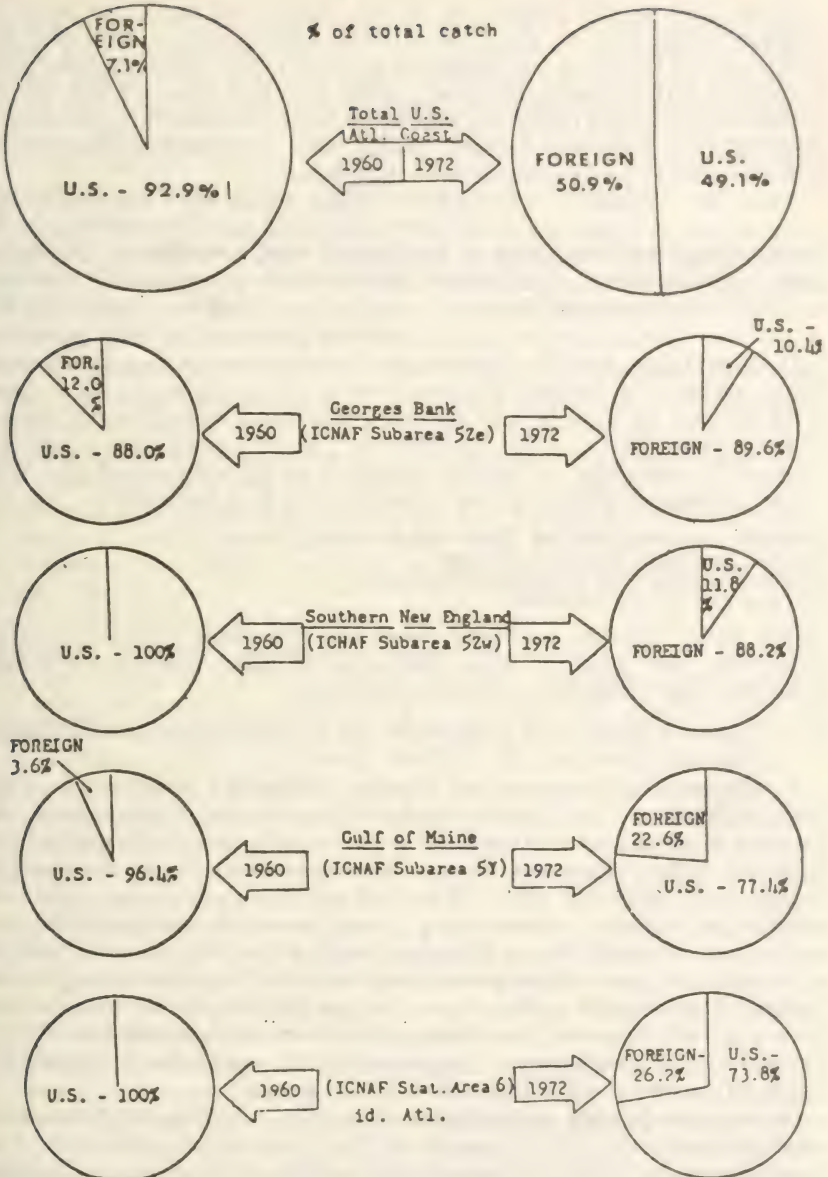


FIGURE 3

Source: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, June 1973.

Since 1950, world production of fish multiplied threefold from 20 million metric tons to about 63 million metric tons in 1969, but the U.S. share of the catch has remained at a relatively fixed level, between 2 and 2.2 million tons. In short, while the U.S. take of fish off its shores has remained relatively stable, perhaps even declining in certain geographical locations, foreign efforts have increased monumentally over the past 15 years to extremely high levels.

After the experience of massive fishing effort on a renewable but finite resource, scientists have now concluded that approximately 25 stocks of fish are overfished or threatened with overfishing. The testimony received by the Commerce Committee has substantiated the very real threat to many of the most valuable stocks off our shores. At the request of the Committee staff, a list was prepared by fisheries scientists identifying specific fisheries stocks which are either in an overfished state or in serious danger. Nearly all of these stocks is presently covered by some sort of negotiated fisheries arrangement, treaty, or some type of Executive agreement. The following is the list, not necessarily complete, of stocks damaged or threatened off the U.S. coasts at present and of direct interest to U.S. fishermen:

Atlantic: Haddock, Herring, Yellowtail flounder.

Pacific: Mackerel, Sablefish, Shrimp.

Atlantic (but not Gulf of Mexico): Menhaden.

Atlantic and Pacific: Halibut.

Three other species, although presently of lesser interest to U.S. fishermen, are also severely damaged—Alaska pollock (Pacific), yellowfin sole (Pacific), and hake (Pacific).

(5) *There is a Need for Management and Conservation in an Extended Fisheries Zone on the Federal Level*

In the past, management of fisheries within the jurisdiction of the United States has been left to the individual States. Furthermore, the Federal Government quitclaimed any ownership interest it might have had over fishery resources within State boundaries in the Submerged Lands Act (43 U.S.C. 1311). The Federal Government has acted in a supportive capacity, undertaking fishery research and providing coordination between States. Further, despite the enactment in 1966 of a 12-mile contiguous fishery zone, implementing legislation to give the Federal Government authority to manage fisheries in the zone has not been enacted. However, the Federal Government ~~can~~ manage fishing beyond U.S. jurisdiction in the sense that it concludes international fishing agreements which control U.S. fishermen.

A national fishery management program, creating comprehensive management authority. [Secs. 2; 102] must be an integral part of an extension of U.S. jurisdiction to 200 nautical miles. [Sec. 101]. Managing fishery resources within this expanded jurisdiction will require government effort of large proportions. In essence, S. 961 is designed to substitute U.S. fishery management for the present arrangement of bilateral and multilateral agreements [Secs. 201; 202] for an interim period of time. [Sec. 401] There is little doubt but that this will be a large, indeed monumental, and complex undertaking. For an as-

section of fishery jurisdiction founded on excessive fishing to really work. [Secs. 2; 101] it must be accompanied by a serious management effort. [Sec. 102] Consequently, the committee recognizes that the United States must prepare itself to shoulder a new and expanded role as protector and manager of some of the world's most prolific and valuable fishing grounds and stocks of fish. [Sec. 2] S. 961 contains provisions designed to carry out this responsibility in partnership with the individual States [Sec. 302] and with due regard for traditional foreign fishing activity. [Sec. 201(e)(1)]

Further discussion of this subject can be found in the report entitled "Fishery Management Under a 200-mile Jurisdictional Limit" prepared for the Committee on Commerce by the Congressional Research Service of the Library of Congress.

(6) *The Effect of S. 961 on the Tuna, Shrimp, and Salmon Industries*

The principal objections to S. 961 have come from (1) domestic fishermen who seek tuna and shrimp off other nations shores, and (2) part of the salmon industry. The long-distance fleet owners fear that enactment of S. 961 will eradicate the traditional U.S. policy of freedom of fishing up to 12 miles from any foreign nation's shoreline, a change of policy seemingly already made by Ambassador Stevenson's speech. The salmon industry, on the other hand, fears that if the United States asserts a 200-mile fishing limit and jurisdiction over anadromous species of fish. [Sec. 102] a series of events will occur leading to increased capture of salmon by foreign nations, particularly the Japanese. First of all, they feel that assertion of jurisdiction over anadromous species [Sec. 102] will simply not be recognized by nations fishing for salmon on the high seas. They claim that once the United States declares a 200-mile limit, the Japanese will abrogate the International North Pacific Fisheries Treaty and fish for salmon inside the abstention line, up to the edge of the 200-mile zone. They fear that Japan has the capacity to take a substantial portion of the salmon returning to the United States, thereby greatly reducing the domestic catch. However, the Committee believes that the Japanese do not place as much emphasis on the capture of salmon as they do on the capture of other fish they presently take from within the 200-mile limit (e.g. pollock). If the United States would assert a 200-mile fishing limit, substantial leverage for ending high seas capture of salmon in return for possible access into the 200-mile limit could be gained.

In regard to the opposition of the tuna interests, the obvious trend is toward a 200-mile fishing zone. S. 961 deals with the tuna situation by declaring that highly migratory species, e.g. tuna, are more properly regulated by international agreements and that coastal nations have no authority to prescribe regulations for the taking of tuna, even though these fish may be found within their 200-mile limit. [Secs. 2(b)(2); 102(3)]

treaties for access into other countries fishery zones can be negotiated. The Brazil Shrimp Fisheries Agreement is one example. [Sec. 202(a)]

(4) (A) **¶** Also, S. 961 indicates that the United States is willing to accept traditional fishing rights of foreign nations within its zone. **¶**Sec. 201 (e) (1) **¶** Logically, it follows that the United States would expect reciprocity from other countries for recognition of traditional U.S. fishing rights. **¶**Sec. 201 (f) **¶**

(7) *S. 961 Will Ultimately Reduce International Fishing Disputes*

It is anticipated that opposition to S. 961 from the Department of State will be based on the bill's potential for creating confrontation with foreign nations which fish off our shores. The Committee expects that certain nations indeed will be reluctant to reduce their fishing effort in areas within 200 miles of U.S. coasts. However, the passage of S. 961, in the long run, will contribute to world order and will remove a source of international conflict which has not been eliminated by any other approach. Establishment of the 200-mile limit will go a long way toward ending the "cod wars" and "tuna wars" which have been disruptive of international relations over several decades, and longer. It will begin the path to stabilization of coastal fishery management limits and bring about more certain rules for the conduct of fishing operations. And, in the opinion of the Committee, the bill will provide an incentive to concluding, as soon as possible, a comprehensive law of the sea treaty, the preferred solution to the question of fishery jurisdiction. **¶**Secs. 2 (c) (5) ; 401 **¶**

(8) *Summary*

As a result of the Committee's examination of the question of fisheries jurisdiction, it has concluded that: (1) the following stocks of fish of direct interest and importance to U.S. fishermen have been overfished—haddock, herring, mackerel, menhaden, sable fish, shrimp, yellowtail flounder, and halibut. It is also noted that the pollack, yellowfin sole, and hake, although of lesser importance to U.S. fishermen, have also been overfished; (2) the overfishing of these stocks of fish are in large measure attributable to massive foreign fishing efforts in waters immediately off the shores of the Nation **¶**Sec. 2 **¶**; (3) international fishery agreements to which the United States is party and which purport to regulate and control fishing efforts on overfished stocks have been ineffective in that goal **¶**Sec. 2 **¶**; (4) a generally acceptable treaty on marine fisheries management jurisdiction will not be negotiated, signed, ratified, and implement until late in this decade and there is danger of further overfishing of other stocks **¶**Sec. 2 **¶**; and (5) therefore, the United States in its own interest and in the interest of preserving threatened stocks of fish must take emergency action **¶**Sec. 2 **¶** to manage, regulate, and control the taking of fish **¶**Secs. 2; 102 **¶** within 200 nautical miles of its shore. **¶**Sec. 101 **¶** and the taking of anadromous species **¶**Sec. 102(2) **¶** of fish and Continental Shelf fishery resources **¶**Sec. 102(3) **¶** beyond such limit, pending international agreement on an acceptable treaty. **¶**Sec. 401 **¶**

SECTION-BY-SECTION ANALYSIS

¶Sec. 1 *Section 1 (Short Title)*

This act may be cited as the "Magnuson Fisheries Management and Conservation Act."

[Sec. 2] *Section 2 (Declaration of Policy)*

In subsection (a), Congress finds and declares that the coastal species of fish which inhabit the waters off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf, and the anadromous species which spawn in U.S. rivers and estuaries, constitute a valuable and renewable natural resource. This resource also contributes to the food supply and economy of the Nation as well as to health and recreation.

The Congress further finds and declares that, as a consequence of increased fishing pressure and because of the absence of adequate fishing management practices and controls, certain stocks of fish have been overfished and others substantially reduced in number. International agreements have not prevented this decline in fishery resources, and further danger of overfishing exists prior to the conclusion of a binding treaty on fishery management jurisdiction.

The Congress further finds and declares that commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent on fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources. At the same time, management of fisheries as common property resources has led to the use of excessive amounts of capital and labor in many fisheries. As a result, the profits earned by individual fishermen are low, potential economic benefits to the Nation are lost, and the fisheries are depressed industries.

The Congress still further finds and declares that fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be restored and maintained so as to provide optimum yields. Therefore, a national program for management and conservation of the fishery resources subject to the jurisdiction of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, and to realize the full potential of the Nation's fishery resources.

In subsection (b), the purposes of Congress are described: (1) to take immediate action to protect and conserve the fishery resources of the Nation by declaring management and conservation authority over such resources in a 200-nautical-mile zone off the coasts of the United States; (2) to extend the exclusive management jurisdiction of the United States over the fishery resources of the Continental Shelf and over anadromous species of fish which spawn in the rivers and estuaries of the United States; and (3) to establish a national fishery management program to prevent overfishing, to rebuild overfished stocks, to insure conservation, and to realize the full potential of the Nation's fishery resources.

In subsection (c), the policy of Congress is set forth: (1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the management and conservation of fishery resources, as provided in the Act; (2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, other than that necessary for the management and

conservation of fishery resources, as provided in the Act; (3) to support and encourage international agreements for the management of highly migratory species of fish and to manage such species when found within the 200-mile zone on the basis of regulations adopted pursuant to such agreements; and (4) to assure that the national fishery management program (A) utilizes, and is based upon, the best scientific information available; (B) involves, and is responsive to the needs of, interested and affected citizens; (C) promotes efficiency; (D) minimizes the costs of research, administration, management, and enforcement; and (E) is workable and effective.

[Sec. 3] Section 3. (Definitions)

1. "Anadromous species" means those species of fish which spawn in fresh or estuarine waters of the United States but which migrate to ocean waters. Examples are salmon and shad.

2. "Board" means the Fishery Management Review Board established under section 204 of this act.

3. "Coastal species" means all species of fish which inhabit the waters off the coasts of the United States, other than highly migratory species and anadromous species. This definition is not identical with the biological definition and is not meant to be. Rather it is a legal definition solely for the purposes of this Act.

4. "Conservation" refers to all the rules, regulations, conditions, methods, and other measures (A) which are required to rebuild and maintain, and useful in rebuilding and maintaining, fishery resources and the marine environment; and (B) which are designed to assure that (i) a supply of food, and other products, and recreational benefits, may be taken or obtained therefrom on a continuing basis; (ii) irreversible or long-term adverse effects on fishery resources, or on the marine ecosystem as a whole, are highly unlikely; and (iii) there will be a multiplicity of options available with respect to future use of these resources. The term "conservation" is interchangeable with the term "management." This definition serves to outline several of the goals of the national fishery management program.

5. "Continental Shelf fishery resources" means living organisms of sedentary species which, at the harvestable stage, are either (1) immobile; (2) in the seabed; or (3) unable to move except in constant physical contact with the seabed or subsoil of the Continental Shelf of the United States. Pursuant to the Convention on the Continental Shelf (15 UST 471; TIAS 5578), the United States exercises sovereign rights over its Continental Shelf for the purpose of exploring for and exploiting natural resources, including fishery resources. The definition of "Continental Shelf fishery resources" used in this act is the same as that contained in the Convention. The Act of May 1964 (78 Stat. 196) presently authorizes the Secretary of Commerce to name the species fitting the above definition. That Act was recently amended to define statutorily certain species as Continental Shelf fishery resources, mainly so as to include the American lobster (*Homarus americanus*) in the definition. The definition used in this act will continue in force existing law on this subject.

6. "Council" means a Regional Fishery Management Council established under section 202 of the act.

7. "Fish" means all living marine organisms, including, but not limited to, finfish, mollusks, crustaceans, marine mammals, and all other forms of marine animal and plant life (but not including birds). Used in conjunction with the term "coastal species," it would include all forms of plant and animal life normally found in coastal waters and of interest to the Nation. Again, this definition is not meant to reflect the biological definition of fish. Combining all such resources in a single term is simply a useful drafting technique.

8. "Fishery" means (1) one or more stocks of fish which can be identified as a unit for purposes of management and conservation and which are so identified by the appropriate Council and the Secretary on the basis on geographic, scientific, technical, recreational, and economic characteristics, and (2) the business, organized activity, or act of fishing for such stocks. The term is broadly defined to take account of the multitude of fishing practices. A fishery can include fishing effort directed toward (1) a single stock of fish found in a certain area; (2) different stocks of fish sought by the same vessels; (3) all the stocks in a certain area, and so on. There can be, and often is, a great variety in value, abundance, habits, methods of capture, and potential yield, from one fishery to the next. For example, both recreational and commercial fishermen participate in fisheries seeking such fish as flounder, salmon, cod, striped bass, bluefish, king mackerel, shrimp, bluefin tuna, and swordfish. Some fisheries, such as the domestic sailfish fishery, primarily involve recreational fishermen, while others, like the squid fishery, involve only commercial fishermen. Variations exist even within some purely commercial fisheries such as where there is competition among users of different kinds of fishing gear. For example, lobsters are taken offshore by both traps and bottom-trawls. It is intended that the Secretary and the Councils select the proper units for management on a case-by-case basis.

9. "Fishery conservation zone" means a zone contiguous to the territorial sea of the United States within which the United States exercises exclusive fishery management and conservation authority. The concept of a fishery conservation zone, or contiguous fishery zone, is one currently recognized in both domestic and international law. In 1966, Public Law 89-659 (the so-called Bartlett Act) was enacted establishing a 9-mile fishery zone contiguous to the 3-mile territorial sea of the United States. It is common practice among the coastal nations of the world to assert fishery jurisdiction in ocean areas beyond their territorial waters (see app. II). As the concept is used in this act, a fishery conservation zone is a special purpose jurisdictional zone, i.e., a geographic area within which legal competence to control, regulate, and establish rights of access to fish is asserted for the specific purpose of conserving fishery resources. It is not an assertion of territorial jurisdiction, a concept which approaches plenary authority. Consequently, it does not change the status of the waters included within the zone for uses and activities other than fishing.

10. "Fishing" means the catching, taking, harvesting, or attempted catching, taking, harvesting, of any fish for any purpose other than scientific research, and any activity at sea in support of such actual or attempted catching, taking, or harvesting.

11. "Fishing vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or of a type normally used for, fishing.

12. "Fishing-support vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or of a type which is normally used for, aiding or assisting one or more fishing vessels at sea in the performance of any support activity (except a scientific research vessel), including, but not limited to, supply, storage, refrigeration, or processing.

13. "Foreign fishing" means fishing by a vessel other than a vessel of the United States. The determinant is the flag of the vessel. If the vessel flies the flag of, i.e., is registered in, a foreign nation, it is included in the term.

14. "High seas" means waters beyond the territorial sea or the fishery conservation zone (or the equivalent thereof) of any nation. This definition is not the same as that contained in the Convention on the High Seas (13 UST: TIAS 5200) which defines the high seas as all parts of the sea that are not included in the territorial sea or in the internal waters of a nation.

15. "Highly migratory species" means species of tuna which, in the course of their life cycle, spawn and migrate in waters of the ocean. Tuna are pelagic fish and are wide ranging in their migrations. For example, stocks of skipjack tuna, found throughout the eastern tropical Pacific Ocean, migrate through the waters of Central and South America and the central Pacific. Because of the extensive migration of tunas and the mobility of sophisticated tuna fleets, these highly migratory species cannot successfully be managed except by agreements which cover these fish, and fishermen, wherever they might go. In addition, unlike anadromous and coastal species, tuna have no special nexus to any coastal nation which gives rise to a claim of exclusive ownership.

16. "International fishery agreement" means any bilateral or multilateral treaty, convention, or agreement which relates to fishing and to which the United States is a party. The term is intended to include executive agreements not subject to the advice and consent of the Senate.

17. "National standards" means the national standards for management and conservation set forth in section 201(a) of the Act.

18. "Optimum," with respect to the yield from a fishery, means the amount of fish (1) which, if produced, will provide the greatest benefit to the Nation, and (2) which is prescribed as such by the appropriate Council and the Secretary on the basis of the maximum sustainable yield from such fishery as modified by any relevant economic, social, and/or ecological factors. All forms of sound fishery management involve the preservation of a portion of a fish stock as brood stock to provide resources for future harvests. In the past, most fishery management has sought to achieve the maximum sustainable yield from a fishery. The maximum yield (primarily a biological term) is achieved when the annual catch from a fishery is at the highest level, in terms of number or weight of fish caught, which can be sustained without harming the reproductive ability of the stock and which assures a similar level of harvest in the next year. However, many ex-

perts believe that use of the maximum sustainable yield objective in fisheries management may lead to substantial economic waste and may ignore important environmental relationships between stocks from which yields cannot be maximized simultaneously. It seems more desirable therefore to adopt the objective of optimum yield, defined to include the maximum yield as the basic standard of reference, as modified by relevant economic, social, and/or ecological factors. However, the Committee does not intend that these modifying factors should be used to institute management measures which permit overfishing on a continued basis. Although it may be conceivable that a situation may occur in which a yield higher than the maximum sustainable might be defensible, this would seem rare and should be only temporary. In almost every other instance, the optimum yield should be equal to or below the maximum sustainable yield. It is intended that determining the optimum yield of each fishery ought to be within the discretionary powers of the Councils and the Secretary.

19. "Person" has the meaning set forth in section 1 of title 1, United States Code, and, in addition, includes any government, including a foreign government, any entity of a government, and a citizen of a foreign nation.

20. "Secretary" means the Secretary of Commerce, or his delegate. The Committee expects that many, if not all, of the authorities and responsibilities given the Secretary under this Act will be delegated to the National Oceanic and Atmospheric Administration and the National Marine Fisheries Service.

21. "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and many other territories and possessions of the United States.

22. "Stock" means, with respect to any fish, a type, species, or other category capable of management as a unit.

23. "United States," when used in the geographical context, includes all States.

24. "Vessel of the United States" means any boat, ship, contrivance, or other craft, however propelled or moved, which is (1) designed, used, or capable of being used for navigation on or under water, and (2) documented under the laws of the United States or which is registered under the laws of any State.

TITLE I—FISHERY MANAGEMENT JURISDICTION OF THE UNITED STATES

[Sec. 101] *Section 101. (Extent of Jurisdiction)*

Subsection (a) establishes, and defines the boundaries of, the fishery conservation zone contiguous to the 3-mile territorial sea of the United States created by this Act. Within the fishery conservation zone, the United States would exercise exclusive fishery management authority. This authority is exclusive in the sense that no other nation may regulate fishing within the zone, although vessels of other nations may be allowed to engage in fishing, in accordance with the Act, within the zone.

The boundaries of the zone are drawn so as to place the zone outside the seaward boundaries of the individual coastal States, but not more than 200 nautical miles from the U.S. coastline. The seaward boundaries of the coastal States are defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301). In all cases, except with respect to Texas and Florida in the Gulf of Mexico where their seaward boundaries are 9 miles from shore, State boundaries are located 3 miles from the coast. The shore or coastline is the baseline from which the territorial sea is measured as set forth in the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639). Although this creates an anomaly with respect to Texas and Florida, it preserves the domestic breakdown of management authority between the States and the Federal Government which has prevailed since the founding of the republic. For the purposes of this act, the waters which are within the boundaries of Texas and Florida, but which are beyond the 3-mile territorial sea of the United States, shall be deemed to be part of the territorial sea.

[Sec. 102(2)] Subsection (b) states that the United States would exercise, throughout their range, exclusive fishery management authority over anadromous species of fish spawned in the fresh and estuarine waters of the United States. However, exclusive U.S. authority would not apply to such fish while they are found in the territorial sea or the fishery conservation zone (or the equivalent thereof) of any other nation, as such is recognized by the United States.

The assertion of exclusive authority over anadromous species of fish is meant to apply when such fish are found on the high seas beyond the U.S. fishery conservation zone, but outside the jurisdiction of any other nation. It is anticipated that the United States will use this authority to ban any capture of anadromous species of fish on the high seas and regulate their taking in the fishery conservation zone. Furthermore, this assertion of authority is not intended to preempt coastal States' authority to manage anadromous species of fish within their boundaries. As a domestic matter, management of these species will have to be handled on a joint basis with the Fishery Management Councils, created pursuant to this Act, and the individual States. The principal example of anadromous species is salmon, the second most valuable species of fish landed in the United States in 1973. To maintain and foster large annual runs of salmon, the Federal Government and the States have expended millions of dollars in building hatcheries, fish ladders around dams, research facilities, and other facilities and programs designed to enhance salmon populations spawned in the rivers and streams of the Nation. The United States is the "host state," or the point of origin, for a large quantity of the salmon found in the waters of the north Pacific Ocean where virtually all the world's catch of salmon is made. The United States, as the "host state," undertakes costly measures for conservation of salmon and prevents our citizens from fishing for them except in coastal waters, where the necessary escapement can be insured. Other nations may, under the principle of freedom to fish on the high seas, catch what they like where runs are highly vulnerable and are composed mostly of immature fish, unless

they agree to restrict their efforts. The purpose of this Act is to assert jurisdiction over anadromous species on the high seas, beyond 200 nautical miles. This aspect of S. 961 is similar to the U.S. law of the sea negotiating position regarding fisheries.

[Sec. 102(3)] Subsection (c) reaffirms that the United States shall exercise exclusive fishery management authority over Continental Shelf fishery resources. This authority will extend to the depth of the ocean at which such resources can be exploited. The extent of jurisdiction asserted is the same as that afforded to the United States under the Convention on the Continental Shelf.

[Sec. 103] Subsection (d) specifically excludes highly migratory species of fish from the exclusive management jurisdiction of the United States. This is in recognition of the wide-ranging migratory behavior of tuna and the need for unification of control pursuant to an international agreement. Adoption of controls by a single nation would be largely ineffective in managing tuna, even if that nation had a 20-mile fishery jurisdictional limit. International management is far more preferable. There are two principal treaties which presently apply to fishing for highly migratory species of fish, including within an extended 200-mile fishery management zone: (1) The Convention for the Establishment of an Inter-American Tropical Tuna Commission (the "IATTC" Convention), effective March 3, 1950 (1 UST 230; TIAS 2044); and (2) the International Convention for the Conservation of Atlantic Tunas (the "ICCAT" Convention), effective March 21, 1969 (TIAS 6767). The IATTC Convention applies to fishing in the eastern tropical Pacific Ocean for yellowfin and skipjack tuna and tuna baitfishes. Member nations are Costa Rica, United States, Mexico, Panama, Canada, Japan, and France. The ICCAT Convention covers all waters of the Atlantic Ocean, including the adjacent seas, and regulates fishing for tuna. Japan, Canada, United States, Brazil, France, Portugal, and the Ivory Coast are signatory to this Convention. Exclusion of highly migratory species from the jurisdiction of the United States preserves these treaties. This is also reflective of the U.S. position on ocean fisheries jurisdiction being advanced in the U.N. Law of the Sea Conference.

Section 102. (Foreign Fishing)

[Sec. 201] Section 102 provides, and outlines the extent of, authority to allow foreign fishing within the fishery conservation zone, for anadromous species of fish, and for Continental Shelf fishery resources. This authority is given jointly to the Secretary of Commerce and to the Secretary of State. The Secretary of the Treasury, due to his responsibilities under the customs laws, must be consulted in the exercise of this authority. Also, such authority is to be exercised in accordance with the provisions of section 102 and is subject, where appropriate, to title I of the Act, the regulations listed thereunder, and sections 301 and 302 relating to prohibited acts.

[Sec. 201(d)] Subsection (b) specifies that the allowable level of total foreign fishing, if any is allowed for any stock of fish, shall be set upon the basis of the portion of the allowable catch of any fishery or stock of fish which cannot, or will not, be harvested by vessels of the United States. This section establishes the concepts of (1) preferential

rights for vessels of the United States to capture fish over which the United States has exclusive fishery management authority, and (2) full utilization of available fishery resources. To the extent that the U.S. fishermen will not (because they lack the capacity or the desire) capture all the allowable catch of many particular stock of fish, foreign fishing is to be allowed. The overall amount of fishing to be allowed under the Act, including foreign fishing and fishing by vessels of the United States, cannot exceed the optimum yield of any stock or fishery. This subsection is substantially in accordance with the provisions of the single negotiating text developed in the Geneva session of the Third U.N. Law of the Sea Conference and with the U.S. position in regard thereto. Should it become necessary to allocate foreign fishing between and among various foreign nations the concept of traditional fishing activity would be used to establish priority.

[Sec. 201(e)] Traditional foreign fishing means long standing, active, and continuous fishing for a particular stock of fish by citizens of a particular foreign nation. Traditional or historic fishing rights were recognized in the act of October 16, 1966 (80 Stat. 908), which created the existing 9-mile contiguous fishery zone. Whether any nation (whose citizens presently fish within the fishery conservation zone, or fish for anadromous species of fish or Continental Shelf fishery resources) possesses traditional fishing rights must be determined on a case-by-case basis. Nations which only recently began to fish 1 or 2 years ago clearly lack such rights. However, nations whose fishermen have continually fished on a particular stock for 10 or 15 years in compliance with any applicable fishery treaties of the domestic law would have a strong case for traditional fishing preferences. The Secretary and Secretary of State would allocate any remainder to foreign nations on an equitable basis.

[Sec. 201(f)] Subsection (c) states that foreign fishing cannot be authorized for any foreign nation unless such nation satisfies the Secretary of Commerce and the Secretary of State that it extends substantially the same fishing privileges to vessels of the United States with respect to fishing within its fishery conservation zone (or its equivalent) or for such nation's anadromous species or Continental Shelf fishery resources, if any. This provision simply creates the principle of equal treatment. Clearly, however, some nations may not have equivalent fishery resources to require equal treatment and therefore no requirement of reciprocity would be required. For example, if the fishermen of Switzerland wish to have access to the fishery conservation zone of the United States, obviously no showing of reciprocity is needed.

[Secs. 102(g); 303(a)] Subsection (d) authorizes and directs the Secretary of Commerce and the Secretary of State to establish appropriate conditions for foreign fishing which must be complied with by any foreign-flag fishing or fishing-support vessel authorized to fish under the Act. These conditions are to be consistent with the national standards, the fishery management plans, and the management regulations under title II of the Act. It is anticipated that such conditions will become part of any agreement between the United States and any such nation, and would be enforced by the United States as well as by the flag nation.

In determining the allowable level of total foreign fishing with respect to any particular fishery or stock of fish, the Secretary of Commerce and the Secretary of State are to utilize the best available scientific information, including, but not limited to, catch and effort statistics and relevant data compiled and made available by any foreign nation. Subsection (e) [Secs. 303(a)(3); 303(a)(5)] requires the Secretary of Commerce to verify the authenticity of foreign catch statistics and any other relevant data furnished for this purpose. The Secretary is also authorized to require that observers be placed aboard foreign-flag fishing and fishing-support vessels authorized to fish pursuant to the Act, to the extent necessary and appropriate. The purpose of such observers is to insure that accurate catch statistics are reported and that the applicable allowable catch level is not exceeded.

The Secretary is also authorized and directed to establish a schedule of reasonable fees which shall be paid to the Secretary by any foreign-flag fishing or fishing-support vessel authorized to fish pursuant to the act. [Sec. 204(b)(10)] In determining the level of such fees, the Secretary may take into account the overall cost of management, research, administration, enforcement, and the value of the fishing privilege, and other relevant factors. The costs of the management system for U.S. fisheries will be borne in part by tax revenues. Consequently, domestic fishermen may contribute to the effort in the form of both tax payments and license fees. Accordingly, the fees charged any foreign fishing vessel would likely be higher than those for a domestic vessel. Therefore, the bill provides that fees charged by the Secretary may vary for different categories of fishermen to the extent deemed reasonable and appropriate. In addition, all pertinent information relating to foreign fishing, including that which is authorized to be collected by the Secretary, shall be made available publicly and shall be published in summary form in the Federal Register. [Sec. 204(b)(4)] Further, no vessel from a foreign nation authorized to fish pursuant to the Act shall engage in such fishing unless and until the owner or operator thereof establishes and maintains a place of business in the United States and names an agent in a State who is authorized to receive legal process. [Sec. 201(c)(2)(F)] This requirement is intended to simplify information gathering and administration of the Act.

Subsection (f) provides that, except as provided pursuant to this act, it shall be unlawful for any vessel, or for any master or other person in charge of any vessel, except a vessel of the United States, to engage in fishing in the internal waters, the territorial sea, or the fishery conservation zone of the United States, or to engage in fishing for anadromous species or Continental Shelf fishery resources. [Secs. 201(a); 204(a)] It should be noted that this Act would allow no foreign fishing within the internal waters or the territorial sea of the United States. [Sec. 307(2)(A)]

Section 103. (International Fishery Agreements)

Section 103(a) [Secs. 202(a); 202(b); 202(c)] directs and authorizes the Secretary of State, in cooperation with the Secretary, to initiate and conduct negotiations with any foreign nations which, prior

to the date of enactment of this Act, has been engaged in, or whose citizens have been engaged in, or wish to engage in, fishing within the fishery conservation zone of the United States, or for anadromous species or Continental Shelf fishery resources. In most cases, this will involve nations with which the United States already has executive agreements concerning fishing, or nations which are a party to multi-lateral fishery agreements covering fishing off the coasts of the United States. However, there may be instances in which nations, which have not signed agreements with the United States or which are not signatory to applicable international treaties, may seek fishing agreements with the United States. It should be made clear that S. 961 does not automatically and completely negate either existing treaty rights or traditional fishing activity. Clearly, the United States has a duty to negotiate with those countries whose citizens fish in areas which would come under an extended fishery conservation zone. The purpose of this section is to direct the Secretary of State to begin negotiations in order to either phaseout or phasedown foreign fishing activities to the levels specified in section 102. **[Sec. 201]** The Committee recognizes the obligation to negotiate with other nations to achieve the goals of this Act. This provision is for that purpose.

In addition, section 103 would authorize and direct the Secretary of State, upon request of and in cooperation with the Secretary of Commerce, to initiate and conduct negotiations with any foreign nation in whose fishery conservation zone (or its equivalent), vessels of the United States are engaged, or wish to be engaged, in fishing, **[Sec. 202(a)(4)(A)]**, or with respect to anadromous species or Continental Shelf fishery resources as to which such nation asserts management authority and for which vessels of the United States fish, or wish to fish, **[Sec. 202(a)(4)(B)]**

The purpose of all such negotiations would be to conclude international fishery agreements to effectuate the purpose, policy, and provisions of this Act. **[Sec. 202(a)(5)]** Such agreements may include, but need not be limited to, agreements to provide for the management and conservation of (1) coastal species which are found both in the fishery conservation zone of the United States and an adjacent foreign nation's equivalent of such zone; (2) anadromous species which are found, during the course of their migration, in ocean areas subject to the fishery management authority of more than one nation, or which intermingle on the high seas with anadromous species originating in the rivers and estuaries of other nations; (3) highly migratory species which may be covered by international fishery agreements; and (4) coastal species or Continental Shelf fishery resources which are found in areas subject to the fishery management authority of any foreign nation, through measures which allow vessels of the United States to harvest an appropriate portion of such species in accordance with the traditional fishing activity of vessels of the United States. **[Secs. 202(a); 202(c); 202(e)]**

Subsection (b) **[Secs. 202(a); 202(b); 202(c)]** further directs the Secretary of State to immediately review, in cooperation with the Secretary of Commerce, each treaty, convention, or other international agreement to determine whether the provisions of such agreements are

consistent with the purposes, policy, and provisions of this act. Presently, the United States is a party to 23 bilateral or multilateral treaties and executive agreements. Many are short-lived executive agreements, negotiated for only 1 or 2 years. It is intended that most such agreements be renegotiated to make them compatible with this Act. Obviously, however, those agreements which have proved successful in the past and which are still satisfactory to U.S. fishing interests, should be retained, if possible. [Secs. 201(a) ; 201(b) ; 201(c) ; 202(a) ; 202(b) ; 202(c)] The Committee intends that negotiations should begin immediately upon enactment of this Act, and the Secretary of State should seek to amend or terminate any agreement which requires change or termination by not later than September 30, 1976. [Secs. 201(a) ; 202(b) ; 202(c)] Time is of the essence and quick action is required.

Subsection (c) [Sec. 202(d)] was included to indicate that the Secretary of State should begin to seek agreements with neighboring countries on the boundaries of the fishery conservation zone of the United States in relation to any such nation. It is possible that negotiations may take some time and it is hoped that the Secretary can achieve interim agreements where necessary so that management programs are not impeded. The immediate and primary concern will be the boundaries with Mexico, Canada, the Soviet Union, and Caribbean nations.

Because of the possibility that certain nations may cite this Act as precedent for a total exclusion of vessels of the United States from the fishery conservation zone over which they claim jurisdiction, subsection (d) [Sec. 202(e)] declares that it is the sense of Congress that the U.S. Government shall not recognize the limits of a fishery conservation zone (or its equivalent) beyond 12 miles from any nation's coastline, if such nation (1) fails to recognize the traditional fishing activity of vessels of the United States, if any, within the zone; (2) fails to recognize traditional fishing activity of vessels of the United States with respect to anadromous species or Continental Shelf fishery resources as to which such nations assert management authority; or (3) fails to recognize and accept that highly migratory species are to be managed by applicable international fishery agreements, whether or not such nations is a party to such agreements. This provision seeks to protect the interest of our long-distance fishing fleets by withholding recognition of a foreign nation's claimed fishery jurisdiction if it is not reasonable in scope.

The last provision of this section, sets a termination date for the other provisions of the title. [Sec. 401] The sections relating to jurisdiction would expire, and cease to be of any legal effect, on the date that a Law of the Sea treaty (or other comprehensive treaty, convention, or agreement with respect to fishery jurisdiction, which the United States has signed or is a party to) comes into force or is provisionally applied by the United States. The Committee expects that this title will be interim in effect and will be amended once a Law of the Sea treaty is agreed to. If the United States signs whatever product is produced out of the Third United Nations Law of the Sea Conference and when the ratification process is complete, this title will be superseded. If the agreement can be provisionally applied, i.e., come into force prior to formal ratification, this title will also cease to have any legal effect.

TITLE II—NATIONAL FISHERY MANAGEMENT PROGRAM

Section 201. (National Standards) [Sec. 301]

Title II creates the institutional mechanism, and procedures, for the adoption of measures to manage and conserve the fisheries subject to the provisions of this Act. It is often felt that when foreign fishing fleets operating within 200 miles of our shores are controlled, problems which have plagued our fishing industry in the past will be eliminated. [Secs. 2; 101] However, the Committee recognizes that by itself the establishment of a 200-mile limit will not eliminate all the problems which have beset our fishing industry. [Secs. 2; 101; 102] A viable management scheme for the Nation's fishery resources is a necessary concomitant of an extended fishery zone. [Secs. 2; 102] It is absolutely vital that a national management program, properly tailored to take account of the variability of fish resources, the individuality of the fishermen, the needs of the consumer, and the obligations to the general public, be established. [Secs. 2; 301(a)] It must also be designed to provide the best product to the consumer at the lowest price while insuring a fair return to fishermen. [Sec. 2] The Committee fully recognizes that creation of this new institutional mechanism, and its implementation, will be no small undertaking. S. 961 has been redrafted to begin that undertaking.

At present, the Federal Government, as noted earlier, does not regulate domestic fishing practices beyond the 3-mile territorial sea even though there is paramount Federal jurisdiction in the area. In 1966, Congress adopted legislation which extended national fishery management jurisdiction 9 miles beyond the 3-mile territorial sea, and generally excluded foreign fishing from this zone. Fishing within the 3-mile limit is regulated by the States. States also manage their residents wherever they go through State licenses and landing laws. However, this State-to-State separation of power is not reflective of the migratory habits of fish stocks, but is due to historic and political factors. As a result, inconsistent regulations have often developed. For example, the State of Oregon maintains a salmon hatchery program. Salmon reared in the Oregon program descend Oregon rivers and later may be found in California waters. These same salmon may then be caught legally under the California fishing regulations, but earlier in the season and at a smaller size than it would be legal to catch these fish under Oregon's fishing code. Consequently, management of fishery resources from the national or regional perspective is important to sound conservation practices.

Title I establishes a fishery management institutional arrangement of three parts. Section 202 [Sec. 302] establishes seven Regional Fishery Management Councils which are charged with the responsibility of preparing management plans [Secs. 302; 303] and recommending management regulations [Secs. 302; 303] to the Secretary for fisheries in the various regions of the country. The regional Councils are, in concept, intended to be similar to a legislative branch of government. The Councils are afforded a reasonable measure of independence and authority and are designed to maintain a close relation with those at

the most local level interested in and affected by fisheries management. The Secretary of Commerce is given authority under the bill to act as the "executive," with ultimate authority to make decisions about management regulations for the entire nation. [Sec. 304] However, the Secretary's responsibility is by no means intended to be plenary. His duties will be to insure that the Councils are properly constituted; that they operate according to the procedures set forth in the Act; that the management regulations which the Councils recommend are compatible with the national management conservation standards; that such regulations do not conflict with any provision of this Act or other applicable law; and generally that the Councils abide by this Act. Finally, section 204 [Not Incorporated into Public Law 94-265] establishes an appellate body, theoretically comparable to the judicial branch, the Fishery Management Review Board. The purpose of this Board is to provide an independent review of disputes (1) which may arise between the individual Councils and the Secretary and (2) relating to the application of management regulations, issuance or denial of licenses, and so on. The Board would be made up of five individuals of "blue-ribbon" quality. The concept of an administrative review board of this nature is not new (i.e. the National Labor Relations Board) and will hopefully provide an independent review process with the ease of access and speed of decision that will give confidence to the decision-making process.

Section 201 [Sec. 301] sets forth the national standards for fishery management and conservation. These apply to management and conservation measures affecting fishing in the fishery conservation zone, for anadromous species and for Continental Shelf fishery resources. The first standard states that management and conservation measures shall prevent overfishing and insure on a continuing basis the optimum yield for each fishery. Undoubtedly this is the most basic objective of fishery management, but still deserves clear recognition. There should be no uncertainty that the basic goal of management is to protect the productivity of fish stocks.

The second standard states that management and conservation measures shall be based upon the best scientific information available. This must also be recognized as one of the most important standards.

As just stated, a basic management objective is to harvest a stock of fish at the level of optimum utilization. If little is known about the size of the stock or environmental effects on other stocks or similar relationships, however, even the best management scheme will fail. Therefore another primary goal must be to achieve the best available scientific information about the stocks. The term "scientific information" is meant to include not only biological and ecological data but also economic and sociological information as well.

The third standard states that, to the extent possible, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination. As the previous example of the Oregon salmon indicates, unity of management, or at least close cooperation, is vital to prevent jurisdictional differences from adversely affecting conservation practices. The

committee recognizes the need to have close cooperation between the Federal and State government because of the separation of jurisdiction inherent in this Act. This is one of the primary reasons why both State and Federal representatives are included in the membership on the Regional Fishery Management Councils.

Standard four states that management and conservation measures shall not discriminate between residents of different States. It states further that, if it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be fair and equitable to all fishermen, reasonably calculated to promote conservation, and carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges. Resource management is essentially a series of allocations—allocations among present users, allocations between present and future users, and allocations between public and private interests. There are simply not enough fish to go around and the line must be drawn somewhere. This is one reason why this Act provides for authority to limit access to a fishery which has too many fishermen participating in it. It is a fact of life that not everyone who wishes will be allowed to fish for a given stock of fish. Therefore when allocation becomes necessary, it must be done judiciously and carefully to prevent discrimination or bias. Since there will be pressures on State representatives to protect the residents of their home State, nothing will destroy the effectiveness of this new management program than if one State, or group of States, attempts to favor their own residents to the detriment of others. If, for example, the most efficient area to catch fish during their migration is near the coast of Rhode Island, New Jersey fishermen should be allowed an equitable portion of the catch if they also fish the same stock.

Standard five states that management and conservation measures shall, where appropriate, promote efficiency in the utilization of fishery resources. Historically, fish stocks have been treated as common property natural resources. As no one has property or ownership rights in them, fishery resources are open to anyone who desires to invest in the requisite vessels and gear, and fish. Fishery resources are, in theory, owned by the American society as a whole, and with a few exceptions, there have been no limits to the number of fishermen who can participate in a fishery. However, this common property characteristic has had rather severe consequences for the use and management of these resources, particularly as stocks have declined. Economic waste has occurred due to overcapitalization of harvesting fleets. Therefore, the committee believes that it should be the goal of the national management program to improve efficiency so that the cost of the product can be reduced and the American fishermen can once again provide a greater share of the fish consumed in the United States. However, there are certain instances in which maximum efficiency would be inappropriate. For instance, recreational fishing need not be made efficient, or much of the sport would be removed.

Management standard six provides that management and conservation measures shall allow for unpredicted variations in fishery re-

sources, and their environment, and for contingencies or possible delays in application. There can be great uncertainty with regard to the location, size, and even the very existence of fish stocks. There are often great peaks and valleys in annual catch statistics for many fisheries. One year the California sardine industry was booming. Less than two years later it was no longer economically viable. Therefore there must be a margin of error in the management system to provide a buffer in favor of the resource. Administrative flexibility to meet unanticipated changes in yield functions due to natural systems must be available. Sudden spawning failure, environmental change, or a combination of these and other factors, may render even the best possible management plans obsolete. Constant acquisition and analysis of data concerning catch and other indicators will help reduce uncertainty. There must be administrative flexibility to adjust to and correct errors; there must be a margin of safety.

Standard seven states an obvious, but often ignored, basic goal: management and conservation measures shall, where appropriate, minimize research, administrative, and enforcement costs and shall avoid unnecessary duplication.

Subsection (b) [Sec. 301(b)] provides that the Secretary shall publish guidelines, based on the national standards, for the Councils to follow in developing fishery management plans and recommended regulations for the management and conservation of fisheries subject to their authority. This provision is included because it is the Secretary who ultimately must make the decision whether recommended regulations are consistent with the national standards. An after-the-fact determination, however, is not preferred and the Secretary should spell out, as early as possible, guidelines for measures which are consistent with the national standards.

Section 202. (Regional Fishery Management Councils) [Sec. 302]

Under subsection (a) [Sec. 302(a)] there is to be established, within one hundred and twenty days after the date of enactment of the Act, seven regional fishery management councils: the North Atlantic Council, the South Atlantic Council, the Gulf of Mexico Council, the Pacific Council, the Caribbean Council, the North Pacific Council, and the Outer Pacific Council. Each council would be concerned with the fisheries seaward of the States named to be part of the council, with the exception of the Pacific Council and the North Pacific Council. The Pacific Council would be concerned with the fisheries in the Pacific Ocean, seaward of California, Oregon and Washington. However, Idaho, which has a sizeable salmon rearing program in the Columbia River, and Alaska, whose fishermen fish in northern part of the Pacific area, are also included on the council. The North Pacific Fishery Council would be concerned with the fisheries in the northern Pacific Ocean off the State of Alaska. For the most part, fishermen in this area reside in Alaska, however, a fairly large number of residents from the State of Washington also fish in this area.

The committee has provided for two fishery management councils on the Atlantic Coast while it was suggested by some that there be three. The committee believes, however, that, for biological reasons,

two councils make more sense than three. Furthermore, having but one council in the North Atlantic, rather than two, will reduce the need for negotiations between two institutional bodies for the management of a single fishery.

Subsection (b) [Sec. 302(b)] specifies that each regional fishery management council reflect the expertise and the interest of the several identified States in the ocean area over which each council is granted authority. Each identified State is entitled to have three members on each applicable council, except that in the case of the Caribbean Council, the Virgin Islands and the Commonwealth of Puerto Rico are entitled to four members each, and in the case of the North Pacific Council Alaska is entitled to five members.

Under subsection (c), [Sec. 302(b)] the Governor of each State may, if he chooses, submit to the President of the United States a list containing the names of those individuals he feels are qualified to be appointed as members of a council as representatives from his State. The President, with the advice and consent of the Senate, would appoint members to represent each State, using the suggestions of the Governors. Confirmation by the Senate is required. At least one of those nominated and confirmed must be a State official with expertise in fishery management. It had been suggested to the committee that persons he named to the councils as representative of specific groups interested in fisheries management. For example, it was suggested that one who was knowledgeable in recreational fishing should be made a member of each council. However, the committee felt that designating one particular interest group would require that other particular groups be represented as well. This would result in far larger councils than would be administratively workable. Therefore, the committee defined that a "qualified individual" is one who is knowledgeable and capable of making sound judgments in the *public* interest with respect to the management and conservation of fishery resources, and vested the discretionary judgment of achieving balanced membership with the Governor and the President. The President would also appoint, upon recommendation of the Secretary, a Federal Government employee to serve on each Council as the Representative of the Secretary. [Sec. 302(c)] This member of the council is considered to be quite important to the operation of the management program. Through the Federal Government representative, a continual dialogue between the councils and the Secretary should be carried on. In this manner, serious disputes can be avoided.

The terms of office of the members (selected as representatives of State) first taking office would expire as designated by the President at the time of nomination—one at the end of the second year, one at the end of the fourth year, and one at the end of the sixth year. Successors to these members would be appointed in the same manner as the original members, except those who have faithfully attended and effectively contributed, in the public interest, to the functioning of such council would be eligible for reappointment. The term of office of successors to such members would expire 6 years from the expiration date of the terms for which their predecessors were appointed. Any individual

appointed to fill a vacancy occurring prior to the expiration of any term of office would be appointed for the remainder of such term. Council members, who are not otherwise employed in any capacity by the Federal or any State or local government, would receive compensation at the daily rate of GS-18 of the general schedule, when engaged in the actual performance of their duties, and all members would be reimbursed for their actual expenses (travel, etc.). **[Sec. 302(d)]**

Subsection (c) **[Sec. 302(h)]** sets forth the basic powers and functions of each council. Each is authorized to (1) select a chairman; (2) appoint, and assign duties to, an executive director and such other full and parttime employees as are necessary to conduct business, and to appoint persons to individual fishery committees and the scientific and statistical committee; (3) identify fisheries in need of management; (4) develop, and submit to the Secretary, an overall fishery management plan, including separate management programs for each fishery within its respective geographic area of authority in need of management; (5) develop, and submit to the Secretary, recommended regulations for the management and conservation of fish within its geographic area of authority; (6) monitor fishing activity and review the impact of management regulations and recommend to the Secretary any appropriate amendments and changes therein; (7) conduct hearings, at appropriate times and in appropriate locations, so as to allow all interested persons an opportunity to be heard on the overall fishery management plan, any separate management program, recommended regulation, and any amendments to regulations; (8) otherwise carry out such other functions as are necessary and appropriate for the effective management and conservation of fisheries resources within its geographic area of responsibility; and (9) report to the Secretary on its activities, plans, programs, findings, and such other matters as are requested. The committee expects that each council would have the appropriate degree of independence necessary to carry out these functions. However, the councils must abide by the requirements of the Act and the requirements of any other Federal law relating to, or affecting, its activities. As indicated earlier, the councils will perform "legislative" duties primarily and will operate by majority rule.

Subsection (d) **[Sec. 302(f)(3)]** directs the Secretary to provide each council with such administrative support as is necessary for effective functioning. This would include building space, administrative supplies, as well as auditing and payment of staff salaries and the other costs of the councils.

It is also expected that support would be provided by the existing regional fisheries commissions.

Because membership on the councils will be largely made up of persons with other job responsibilities and would meet only intermittently, the committee expects that additional expertise must be available to give each council the independent expertise required to effectively carry out its functions. Subsection (e) **[Sec. 302(g)]** authorizes each council to establish two types of committees. First, a scientific and statistical committee would be named to assist each

council in the development collection and evaluation of each statistical, biological, economic, social and other scientific information as is relevant to management plans or recommended regulations. This committee would be composed of not more than seven members, six of whom would be fisheries scientists and experts, and the seventh would be the director of the appropriate regional research center of the National Marine Fisheries Service would serve as chairman. Active use of a scientific and statistical committee, the committee believes, is a very important part of the overall management program. Independent decisions by fisheries experts is indispensable to wise management decisions. The director of the appropriate regional center of the National Marine Fisheries Service is designated to serve on the committee as chairman because the National Marine Fisheries Service has the resources and personnel to develop data and do research on fisheries. It is expected that the Service will continue that function and provide scientific information to the regional councils for their use. Second, subsection (e) authorizes the establishment of "individual fisheries committees" to assist the councils in the preparation of management programs, recommended regulations, and/or changes or amendments to existing plans and regulations, with respect to individual fishery. Individual fishery committees would be composed of persons selected to represent those actually engaged in the fishery, and others knowledgeable and interested in the conservation of the fishery. Each council will need to rely on these committees to assist it. This is the mechanism by which the so-called "user groups" would provide input. It is intended that the councils fairly balance membership on each committee so that all interested groups are represented in proper proportion. Members of both of these committees would be reimbursed for travel expenses including per diem in lieu of subsistences as provided in section 5703 of title 5, United States Code, for persons in government service intermittently.

Each council would have the responsibility of developing management plans and recommended regulations with respect to fishing in the fishery conservation zone, and fishing for anadromous species and Continental Shelf fishery resources beyond the zone [Secs. 302(h); 303], but have no power to regulate fisheries principally located in waters within the boundaries of a single State. [Sec. 306(b)] However, the committee fully expects that, in the case of fisheries which overlap a council's area of authority and State boundaries, the councils will collaborate with the States and develop non-conflicting management programs. Subsection (f) also provides that, if a fishery extends beyond the geographic area of authority of a single council, the appropriate councils would coordinate or combine their efforts as necessary. [Sec. 304(f)]

Section 203. (Management Regulations) [Sec. 303]

This section outlines the procedures for adopting, and the content of, management regulations to be promulgated under the Act. Subsection (a) [Sec. 303(a)] provides that as soon as practicable, each council, or the Secretary, would identify those fisheries in need of con-

servation. Each council would then develop (1) a fishery management plan for each fishery in the order needed, and (2) recommended management regulations as required for the implementation and maintenance of each plan. A fishery management plan would contain goals, management measures such as quotas, descriptions, and the like. It would also have to remain fairly flexible given the variability of fish stocks. Furthermore, in large measure, the plan will be made up of the management regulations themselves. The councils would submit the completed plan and the recommended regulations to the Secretary as soon as practicable. The plan must include (a) the description of the fishery, including but not necessarily limited to, the number of vessels involved; the type of gear used; the species of fish involved and their location; the costs likely to be incurred in management; the potential revenue from the fishery; the recreational interest in the fishery; and the nature and extent of foreign fishing and Indian treaty rights, if any; (b) a summary of the best scientific information available with respect to the present and probable future condition of, and the maximum sustainable yield, from the fishery; (c) an assessment of the capacity of vessels of the United States, and the desire of their owners to harvest the optimum yield from a fishery, and an assessment of the surplus in the fishery which can be made available for foreign fishing without risk of overfishing; and (d) any other relevant and appropriate information, data, and evaluations. The above list is intended to be illustrative and a minimum and not exclusive.

Subsection (b) [Sec. 303(b)] outlines the type of management regulations which might be recommended by the councils. Listed in the bill are all of the management tools presently available for the management of fishery resources, and are described below.

1. Closed seasons involve the prohibition of fishing effort during a given time period. These are usually set during periods when fish are extremely vulnerable, in spawning condition, or at low marketable quality. Closed areas involve the closing of a specific geographic area to fishing. Fishing areas are closed when the harvest of fish would endanger survival of the stock. Spawning and nursery areas are frequently closed to fishing during critical periods of a species' life cycle. Also certain areas may be closed to certain types of gear so that more vulnerable species can be allowed to regenerate.

2. Under the Act, the councils, together with the Secretary, would be authorized to, directly or indirectly, limit access to a fishery. Limited access is a management technique that is directed at economic as well as biological objectives. This technique is used to reduce the congestion and economic waste which often occurs from the "open access" condition of common property fisheries. There are three different techniques for limiting access. One is the use of licensing schemes which limits the number of units in a fishery. This might be a limit on the number of vessels, fishermen, nets, pots or other kinds of inputs. The second technique is to control the amount of capital and labor through taxes or license fees in an amount sufficiently high to dissuade superfluous fishermen from entering the fishery. The third technique is to divide the total allowable catch into shares or quotas which are then dis-

tributed among the fisherman. Limited access is a rather novel fishery management tool and is being tried on a large scale only in Alaska, British Columbia, and the salmon fishery in the State of Washington. Experience with limited access is still sparse and refinement of the technique is continued. The committee intends that limited access should be used carefully, and only when other tools fail to achieve management objectives. In structuring such a system, the councils and the Secretary should, among other considerations, recognize: present participation in the fishery; historical fishing practices; dependence on the fishery; the value of existing investment in vessels and gear; the value of fishing privileges; the capability of existing vessels to direct their efforts to other fisheries; any State limited access systems; the history of compliance with applicable fishing regulations; the optimum yield of the fishery; and the cultural and social framework in which the fishery is conducted. The committee also wishes to point out that this provision should not be construed, in any way, to affect or change the treaty rights of Indians such as have been recognized in the decision of the United States Court of Appeals for the 9th circuit, in the case *The United States v. the State of Washington*, or any other applicable decision or treaty.

3. The councils and the Secretary, would also have authority to establish limitations on the catch of fish in any fishery based on area species, size, number, weight, sex, incidental catch, total biomass, quotas, or other factors which are necessary in the conservation of such fish. Determination of size limits are often based on several different philosophies. In some cases the size limit is based on an attempt to increase annual yields by permitting individual fish to grow to a larger size. In other instances, the taking of fish below a certain size is prohibited in order to allow growth to a more useable size, or to an age or size where reproduction is possible. And, in a few cases, maximum limits are imposed in order to preserve broad stock.

4. Vessel limitations, such as restriction on size, tonnage, or automotive power, are generally adopted as means for indirectly decreasing pressures on a stock by imposing technological inefficiency. Such controls tend to be effective only temporarily. It is this type of regulation that in the past has often proved to be restrictive, complicated, and wasteful. This tool will have its best impact when used in conjunction with others (such as limited entry no-fishing zones, etc.) Nonetheless, while this tool is made available, the committee still fully intends that efficiency in resource utilization could be achieved wherever possible.

5. Issuing licenses or permits might be used in conjunction with all the other tools, such as limiting access, restricting vessel and gear size, or whatever. To the extent possible, the Secretary should streamline the license system, perhaps by working in conjunction with State licenses issued for similar fisheries.

6. Obtaining catch and other appropriate statistics is vital to successful fishery management program. As part of the overall management effort, individual fishermen, as well as processors, should be required to report catch or other data.

7. In addition to other powers, the councils and the Secretary may

use other measures which might be necessary and appropriate to carry out the purposes of this Act. **[Sec. 304]**

Subsection (c) **[Sec. 304(b)]** outlines the authority of the Secretary to review recommended regulations. Once a council completes its plans and recommended regulations and submits them to the Secretary **[Sec. 303(c)]** the Secretary would review the regulations **[Secs. 304(a) : (b)]** and determine whether they are consistent (1) with the national standards, and (2) with the provisions and requirements of this Act and any other applicable law. Recommended regulations which are consistent would be adopted by the Secretary, and he would publish a notice of proposed rulemaking with regard to them. **[Sec. 305(a)]** If the Secretary determines that they are inconsistent, he would notify the applicable council of the inconsistency and indicate the changes necessary to make the regulations consistent. **[Sec. 304(a) (2)]** The council then may make the changes, but if it fails to do so within 60 days after it received notice from the Secretary, the Secretary can then go forward and make the necessary changes himself and issue the notice of proposed rulemaking. **[Sec. 304(c)]** During the review process, the Secretary is required to consult with the Secretary of the Department in which the Coast Guard is operating if any recommended management regulation would involve methods and procedures for enforcement at sea. **[Sec. 304(b) (2)]** Furthermore, if any recommended regulations would apply to foreign fishing, the Secretary must consult with the Secretary of State. **[Sec. 304(b) (1)]** Clearly, writing regulations which would apply to foreign fishing is more properly a function of the Federal government, rather than the councils. It is expected, therefore, that the Secretary will have more discretion with regard to these regulations to insure that they are compatible with U.S. international obligations. **[Sec. 304]** However, there are some management regulations which the councils could properly recommend: for example, closed areas to protect certain stocks, quotas, and mesh sizes for nets, among others. **[Sec. 303(b)]**

Subsection (d) states that the Secretary shall publish, in the Federal Register, any management regulations which he proposes to promulgate pursuant to the Act. **[Sec. 305(a) (2)]** The regulations would, among other things, request comment on the proposed regulations, designate the fisheries to which they apply, and summarize the recommendations of the applicable council or councils, including, where appropriate, an explanation of how the proposed regulations differ from those recommended by the councils and the reasons therefor. **[Sec. 305(a) (2) (B)]**

Subsection (3) **[Secs. 304(c) : 305(g)]** authorizes the Secretary to promulgate final regulations, in accordance with the provisions of this title and section 553 of title 5, United States Code, without regard to subsection (a) thereof. These regulations would cover (1) fishing by vessels of the United States and foreign fishing within the fishery conservation zone, (2) fishing by vessels of the United States for coastal species beyond that zone, and (3) fishing by vessels of the United States and foreign fishing for anadromous species and Continental Shelf fishery resources with the zone and beyond. In addition, the Secretary is authorized to issue regulations pertaining to, but not limited to, the operation of the councils **[Sec. 304(f)]**, the setting of fees

[Sec. 304(d)], procedures for obtaining data and statistics relating to fishing, and other matters relating to the purposes of the Act. **[Secs. 304; 305]** The regulations must provide for full consultation and cooperation with all other interested Federal agencies and departments, with any coastal State, and with any foreign nation (through the Secretary of State), and for consideration of the views of any interested member of the general public. The Secretary is further authorized, consistent with the purposes and provisions of the Act, to amend or rescind any such regulations.

Subsection (f) **[Sec. 305(e)]** provides the Secretary with authority to take emergency action. If the Secretary determines that an emergency situation exists requiring immediate action in the national interest to protect any fishery resources, he would prepare and promulgate emergency management regulations as soon as practicable. Such regulations must be issued in accordance with the provisions of section 553 of title 5, United States Code, without regard to subsection (a) thereof. An emergency situation might arise in the case of a sudden collapse of a fish run during the season, or a similar occurrence. Emergency regulations should not remain in effect for an extended period of time. The Secretary should also discuss the situation with the appropriate council to determine whether more permanent regulations, a removal of the emergency regulations, or other action, is needed.

To allow public participation, subsection (g) **[Sec. 305(a)(2)(B)]** provides that any coastal State, or any interested member of the general public, may nominate a fishery as a fishery in need of regulation, by submitting a written statement to the Secretary identifying such fishery and describing the reasons why it should be managed. The Secretary shall promptly forward each such nomination to the appropriate council for action.

Subsection (h) **[Sec. 304(b)]** directs the Secretary to review, from time to time, the actions of the councils to determine whether the councils are acting in timely fashion. If the Secretary determines that a council has failed to recommend management regulations for any fishery within a reasonable time, he would prepare management regulations and submit them to that council. The council would have an opportunity to make changes in those regulations consistent with the national standards. But if it does not make the changes within 45 days after it receives the submission from the Secretary, the Secretary's regulations would stand, and he would issue a notice of proposed rulemaking on them.

The Secretary, under subsection (i) **[Sec. 304(e)]**, is directed to initiate and maintain a program of fisheries research designed to acquire knowledge and information, including statistics, on fishery management and conservation, including, but not limited to, biological research concerning interdependence of species, the impact of pollution, the impact of wetland and estuarine degradation, and other factors bearing upon the abundance and availability of fish. This research program would be supportive of the national fishery management program.

Section 204. (Fishery Management Review Board) **[Section not Incorporated into Public Law 94-265]**

Section 204 establishes an independent instrumentality to be known as the Fishery Management Review Board. The Board would have exclusive and original jurisdiction to hear appeals from actions of the Secretary relating to fishery management. The purpose of the Board is to provide an independent review procedure for the settlement of disputes arising from the administration of the Act. The Board is established to be the "fact-finder" in the appeals defined in subsection (c). Congress has fairly broad power under Act III, section I, of the Constitution to define judicial authority. In this case, the committee feels it appropriate that an administrative review board consider certain appeals relating to this Act in the first instance, and that judicial review of the Board's decision be made by the U.S. Courts of Appeals.

The Board would be composed of five members appointed by the President, by and with the advice and consent of the Senate. Of the members, at least three would be individuals appointed by the President from a list of qualified individuals submitted by the National Governor's Conference consisting of not less than three such individuals for each vacancy. Members of the Board would not engage in any other business, vocation, or profession during their term of office. A "qualified" individual is defined as someone who is knowledgeable and capable of making sound judgments with respect to appeals before the Board.

The members of the Board would be appointed for a term of three years, except that (1) the terms of office of the member first taking office would expire as designated by the President at the time of nomination; and (2) any individual appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed would be appointed for the remainder of the term and in the same manner in which his predecessor was appointed. Successors to the members of the Board first taking office are to be appointed in the same manner as the original members. Each member of the Board is eligible for reappointment. The members of the Board would select one of their number to serve as chairman. The Board is authorized to appoint an executive secretary and such administrative law judges and other employees as are necessary for the proper performance of its duties.

Subsection (c) describes the scope of appeals reviewable by the Board. Any person who is adversely affected, aggrieved by, or suffering legal wrong because of (1) any final management regulation promulgated by the Secretary pursuant to this title, or (2) a decision by the Secretary to issue, transfer, revoke, suspend, modify, or renew a license or permit, may obtain review of such action by the Board if he files a request for review with the Board not later than 60 days after the date of publication of such final regulation or decision. In addition, any council, whose recommended management regulations were determined by the Secretary to be in consistent with the national standards, may obtain review of the Secretary's action by the Board if it files a request therefor with the Board not later than 60 days after the date of publication of any final management regulation involved. In any appeal, the Secretary or any affected council, if not a party, may intervene as a matter of right.

The review proceedings of the Board would be in accordance with the provisions of section 554 of title 5, United States Code, and the Board should publish its rules of procedures in the Federal Register. To the extent possible, such proceedings would be held in the locality closest to the fishery involved. Should the Board find that justice so requires, it may issue an order postponing the effective date of an action of the Secretary, or preserving the status or rights of any person, pending the outcome of such review proceedings.

Subsection (d) specifies the review standard to be applied by the Board. In any review requested by a council relating to any management regulation, the Board would uphold the action of the Secretary unless it finds that his action: (1) was not consistent with the national fishery standards, or with the provisions and requirements of this Act or any other applicable law; (2) was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (3) was contrary to constitutional right, privilege, power or immunity; (4) was clearly not supported by the facts and record available to the Secretary; or (5) did not observe the procedure required by this Act or other law. If the Board did not uphold the action of the Secretary, it would enter a final decision declaring the action invalid together with the reasons therefor; remanding the matter to the Secretary; and directing the Secretary to take, after consultation with the affected council, appropriate action. In an appeal relating to any other matter, the scope of review would be as set forth in section 706 of title 5, United States Code.

Subsection (e) provides powers to the Board, or any member thereof, to carry out the provisions of section 204, hold hearings, sit and act at appropriate times and places, administer oaths, and require by subpoena or other order the attendance and testimony of witnesses and the production of evidence as the Board or member deems advisable. Subpoenas could be issued under the signature of the Chairman of the Board or any duly designated member of the Board, and could be served by any person designated for that purpose by the Chairman. Witnesses summoned would be paid the same fees and mileage paid witnesses in the courts of the United States. Attendance of witnesses and production of evidence may be required from any place in the United States to any place designated for any hearing.

In the event someone refuses to obey a subpoena or other order, issued by the Board, the district court of the United States for any such district would have jurisdiction and could, upon the request of the Chairman of the Board, issue to that person an order to appear and produce evidence. Failure to obey such an order would be punishable by the Court as a contempt of court.

The Administrator of General Services is directed to furnish the Board with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

Subsection (f) provides that members of the Board would be compensated at the rate provided for level V of the executive schedule (5 U.S.C. 5316), and would also be reimbursed for travel expenses, including per diem in lieu of subsistence.

Subsection (g) states that any person who is adversely affected or aggrieved by, or who suffers legal wrong through, a decision of the Board may, not later than 60 days after the date of any such decision, seek judicial review of the decision in the United States Court of Appeals for the circuit nearest to the fishery involved.

Section 205. (Relationship to State Laws) [Sec. 306]

This section is included to emphasize the committee's desire that nothing in the Act be construed to extend the jurisdiction of any State over any natural resources beneath or in the waters beyond its seaward boundaries, or to diminish the jurisdiction of any State over any natural resource beneath and in the waters within its boundaries. This bill is intended to cover fish in the fishery conservation zone and to cover fishing for anadromous species of fish and Continental Shelf fishery resources of the United States found beyond the zone.

Section 206. (Interstate Cooperation and Uniform Laws) [Section not incorporated into Public Law 94-265]

The Secretary is directed to encourage cooperative action by the States and councils for the management and conservation of coastal and anadromous species of fish and Continental Shelf fishery resources, and to encourage, insofar as practicable, the enactment of improved and uniform State laws relating to the management and conservation of such fish. Cooperation between the individual States, the Federal government, and the councils is essential to effective management. The committee believes that this area desires continual priority attention by the Secretary.

TITLE III—MISCELLANEOUS PROVISIONS

Section 301. (Prohibited Acts and Practices) [Sec. 307]

Section 301(a) [Sec. 307] defines prohibited acts. It is deemed unlawful for any person to: (1) violate any provision of the Act, or any regulation issued thereunder, regarding fishing within the fishery conservation zone or with respect to anadromous species of Continental Shelf fishery resources; (2) violate any provision of any international fishery agreement to which the United States is a party and which is negotiated or reviewed pursuant to this Act, to the extent the agreement applies to or covers fishing within the fishery conservation zone; (3) ship, transport, purchase, sell or offer for sale, import, export, possess, control, or maintain in his custody any fish taken in violation of paragraphs (1) and (2), if that person knew or had reason to know that the taking was not lawful; (4) refuse to permit a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, to board a fishing vessel or fishing-support vessel subject to that person's control, if the purpose of the requested boarding is to inspect the catch, fishing gear, ship's log, or other records or materials aboard the vessel; or (5) fail to cooperate with a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, engaged in a reasonable inspection pursuant to paragraph (4), or to resist any lawful arrest.

For the purposes of this section, it shall be a rebuttable presumption that all fish found on board a vessel seized in connection with a prohibited act were taken or retained in violation of this Act. The origin of this provision is the so-called Bartlett Act (13 U.S.C. 1082).

Subsection (b) [Sec. 309] defines the criminal penalties: any person who willfully commits a prohibited act could upon conviction, be fined not more than \$100,000 or imprisoned for not more than 1 year, or both.

Civil forfeiture of vessels of gear has proved to be a valuable deterrent to fishing violations. [Sec. 310] Subsection (c) [Sec. 310] provides that any district court of the United States would have jurisdiction, upon application by the Secretary or the Attorney General, to order forfeited to the United States any fish or fishing gear, used, intended for use, or acquired by, activity violating this Act. In any proceeding, the court may, at any time, enter restraining orders or prohibitions or take such other actions as are in the interest of justice, including the acceptance of satisfactory performance bonds in connection with any property subject to civil forfeiture. If a judgment is entered for the United States under this subsection, the Attorney General is authorized to seize all property or other interests declared forfeited upon such terms and conditions as the Court deems in the interest of justice. All provisions of law relating to the disposition of forfeited property, the proceeds from the sale of such property, the remission or mitigation of forfeitures for violation of the customs laws, and the compromise of claims, would apply to civil forfeitures under this Act, insofar as applicable and not inconsistent with the provisions of the Act. Such duties as are imposed upon the collection of customs or any other person with respect to seizure, forfeiture, or disposition of property under the customs laws shall be performed with respect to property used, intended for use, or acquired by activity in violation of any provision of this section by such officers or other persons as may be designated for that purpose by the Secretary.

Section 302. (Enforcement) [Sec. 311]

The provisions of the Act are to be enforced, together with regulations issued thereunder, by the Secretary and the Secretary of the department in which the Coast Guard is operating. The Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, or any State agency, in the performance of their duties.

Any enforcement officer, duly authorized may: (1) board and inspect any fishing vessel or fishing-support vessel which is within the fishery conservation zone, or which he has reason to believe is fishing for anadromous species or Continental Shelf fishery resources; (2) arrest any person, with or without a warrant, if he has reasonable cause to believe that such person has committed a prohibited act; (3) execute any warrant or other process issued by an officer or court of competent jurisdiction; and (4) seize all fish and fishing gear found aboard any fishing vessel or fishing-support vessel which is engaged in any prohibited act. [Sec. 311(d)]

Under subsection (c), the district courts of the United States are given exclusive jurisdiction over all cases or controversies arising under this Act, except as provided in section 204 relating to the Review Board. The courts may issue all warrants, or other process, to the extent necessary or appropriate. In the case of Guam, actions may be brought and process issued by the District Court of Guam; in the case of the Virgin Islands, by the District Court of the Virgin Islands; and in the case of American Samoa, by the District Court for the District of Hawaii. The district courts shall have jurisdiction over all such cases and controversies without regard to the amount in controversy or the citizenship of the parties.

Section 303. (Repeal) [Sec. 402]

Section 303 repeals the Act of October 14, 1966 (16 U.S.C. 1091-1094), which created the existing 12-mile contiguous zone, and the Act of May 20, 1964 (16 U.S.C. 1081-1086), as amended by the Act of July 26, 1968 (82 Stat. 445), which regulates foreign fishing within the territorial sea and the contiguous fishery zone.

Section 304. (Authorization for Appropriation) [Sec. 406]

There are authorized to be appropriated for the purposes of this Act: (1) to the Secretary such sums as are necessary, not to exceed \$22,000,000 for the fiscal year ending June 30, 1976, not to exceed \$5,500,000 for the transitional fiscal quarter ending September 30, 1976; and not to exceed \$22,000,000 for the fiscal year ending September 30, 1977; and (2) to the Secretary of the department in which the Coast Guard is operating, such sums as are necessary, not to exceed \$13,000,000 for the fiscal year ending June 30, 1976; not to exceed \$3,250,000 for the transitional fiscal quarter ending September 30, 1976; and not to exceed \$13,000,000 for the fiscal year ending September 30, 1977.

ESTIMATED COSTS

Pursuant to section 252 of the Legislative Reorganization Act of 1970, the Committee estimates that the cost of this Act for which appropriations are authorized will be as follows:

[In thousands]

	Fiscal year 1976	Transitional quarter	Fiscal year 1977
To the Secretary of Commerce.....	\$22, 000	\$5, 500	\$22, 000
To the Secretary of the Department in which the Coast Guard is operating ¹ ..	13, 000	3, 250	13, 000

¹ The Coast Guard estimates provided to the committee were considerably higher than those shown here. Most of these estimates reflected costs of equipment which would have a multipurpose mission and therefore would not be used solely for the purposes of this act.

TEXT OF S. 961, AS REPORTED

A bill to extend, pending international agreement, the fishery management and conservation authority of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Magnuson Fisheries Management and Conservation Act".

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

【Sec. 2(a)】 (1) The coastal species of fish which inhabit the waters off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf, and the anadromous species which spawn in United States rivers and estuaries, constitute a valuable and renewable natural resource. This resource contributes to the food supply and economy of the Nation as well as to health and recreation.

(2) As a consequence of increased fishing pressure and because of the absence of adequate fishing management practices and controls, (A) certain stocks of such fish have been overfished to the point where their survival is threatened, and (B) other such stocks have been so substantially reduced in number that they could become similarly threatened.

(3) International agreements have not always prevented or terminated overfishing, nor have they halted the unnecessary reduction of this valuable resource. There is danger that further overfishing will occur before an effective international agreement on fishery management and jurisdiction can be negotiated, signed, ratified, and implemented.

(4) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade.

(5) Management of fisheries as common property resources has led to the use of excessive amounts of capital and labor in many fisheries. As a result, the profits earned by individual fishermen are low, potential economic benefits to the Nation are lost, and the fisheries are depressed industries.

(6) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be restored and maintained so as to provide optimum yields.

(7) A national program for management and conservation of the fishery resources subject to the jurisdiction of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, and to realize the full potential of the Nation's fishery resources.

【Sec. 2(b)】 (b) PURPOSES.—It is therefore declared to be the purpose of the Congress in this Act—

(1) to take immediate action to protect and conserve the fishery resources of the Nation by declaring management and conservation authority over such resources in a 200 nautical mile zone off the coasts of the United States;

(2) to extend the exclusive management jurisdiction of the United States over the fishery resources of the Continental Shelf and over anadromous species of fish which spawn in the rivers and estuaries of the United States; and

(3) to establish a national fishery management program to prevent overfishing, to rebuild overfished stocks, to insure conservation, and to realize the full potential of the Nation's fishery resources.

[Sec. 2(c)] (c) **POLICY.**—It is further declared to be the policy of the Congress in this Act—

(1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the management and conservation of fishery resources, as provided in this Act;

(2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, other than that necessary for the management and conservation of fishery resources, as provided in this Act;

(3) to support and encourage international agreements for the management of highly migratory species of fish and to manage such species when found within the 200-mile zone on the basis of regulations adopted pursuant to such agreements; and

(4) to assure that the national fishery management program (A) utilizes, and is based upon, the best scientific information available; (B) involves, and is responsive to the needs of, interested and affected citizens; (C) promotes efficiency; (D) minimizes the costs of research, administration, management, and enforcement; and (E) is workable and effective.

DEFINITIONS

[Sec. 3] **SEC. 3.** As used in this Act, unless the context otherwise requires, the term—

(1) “anadromous species” means those species of fish which spawn in fresh and estuarine waters of the United States and which migrate to ocean waters;

(2) “Board” means the Fishery Management Review Board established under section 204 of this Act;

(3) “coastal species” means all species of fish, other than highly migratory and anadromous species, which inhabit the waters off the coasts of the United States;

(4) “conservation” refers to all of the rules, regulations, conditions, methods, and other measures (A) which are required to rebuild and maintain, and useful in rebuilding and maintaining fishery resources and the marine environment; and (B) which are designed to assure that—

(i) a supply of food, and other products, and recreational benefits, may be taken or obtained therefrom on a continuing basis;

(ii) irreversible or long-term adverse effects on fishery resources, or on the marine ecosystem as a whole, are highly unlikely; and

(iii) there will be a multiplicity of options available with respect to future use of these resources;

(5) "Continental Shelf fishery resources" means living organisms of sedentary species which, at the harvestable stage, are either (A) immobile, (B) in the seabed, or (C) unable to move except in constant physical contact with the seabed or subsoil of the Continental Shelf; including, but not limited to, the following species:

COLEENTERATA

Bamboo Coral—*Acarella* spp.;
 Black Coral—*Antipathes* spp.;
 Gold Coral—*Callogorgia* spp.;
 Precious Red Coral—*Corallium* spp.;
 Bamboo Coral—*Keratoisis* spp.; and
 Gold Coral—*Parazoanthus* spp.

CRUSTACEA

Tanner Crab—*Chionecetes tanneri*;
 Tanner Crab—*Chionocetes opilio*;
 Tanner Crab—*Chionoecetes angulatus*;
 Tanner Crab—*Chionoecetes bairdi*;
 King Crab—*Paralithodes camtschatica*;
 King Crab—*Paralithodes platypus*;
 King Crab—*Paralithodes brevipes*;
 Lobster—*Homarus americanus*;
 Dungeness Crab—*Cancer magister*;
 California King Crab—*Paralithodes californiensis*;
 California King Crab—*Paralithodes rathbuni*;
 Gold King Crab—*Lithodes aequispinus*;
 Northern Stone Crab—*Lithodes maia*;
 Stone Crab—*Menippe mercenaria*; and
 Deep-sea Red Crab—*Geryon quinquedens*.

MOLLUSKS

Red Abalone—*Haliotis rufescens*;
 Pink Abalone—*Haliotis corrugata*;
 Japanese Abalone—*Haliotis kamtschatkana*;
 Queen Conch—*Strombus gigas*;
 Surf Clam—*Spisula solidissima*; and
 Ocean Quahog—*Arctica islandica*.

SPONGES

Glove Sponge—*Hippiospongia canaliculata*;
 Sheepswool Sponge—*Hippiospongia lachne*;
 Grass Sponge—*Spongia graminea*; and
 Yellow Sponge—*Spongia barbera*.

The Secretary, in consultation with the Secretary of State, may add to the foregoing list the name of any other species of living organism which he determines to be such a resource, upon publication of a notice to such effect in the Federal Register, and such species shall thereafter be considered to be included in the term.

(6) "Council" means a Regional Fishery Management Council established under section 202 of this Act;

(7) "fish" means all living marine organisms, including, but limited to, finfish, mollusks, crustaceans, marine mammals, and all other forms of marine animal and plant life (but not including birds);

(8) "fishery" means—

(A) one or more stocks of fish which can be managed as a unit for purposes of management and conservation and which are identified by the appropriate Council and the Secretary on the basis of geographic, scientific, technical, recreational, and economic characteristics; and

(B) the business, organized activity, or act of fishing for such stocks;

(9) "fishery conservation zone" means a zone contiguous to the territorial sea of the United States within which the United States exercises exclusive fishery management and conservation authority;

(10) "fishing" means the catching, taking, harvesting, or attempted catching, taking, or harvesting, of any fish for any purpose other than scientific research, and any activity at sea in support of such actual or attempted catching, taking, or harvesting;

(11) "fishing vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or of a type normally used for, fishing;

(12) "fishing-support vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or of a type which is normally used for, aiding or assisting one or more fishing vessels at sea in the performance of any support activity (except a scientific research vessel), including, but not limited to, supply, storage, refrigeration, or processing;

(13) "foreign fishing" means fishing by a vessel other than a vessel of the United States;

(14) "high seas" means waters beyond the territorial sea or the fishery conservation zone (or the equivalent thereof) of any nation;

(15) "highly migratory species" means species of the tuna which, in the course of their life cycle, spawn and migrate in waters of the ocean;

(16) "international fishery agreement" means any bilateral or multilateral treaty, convention, or agreement which relates to fishing and to which the United States is a party;

(17) "national standards" means the national standards for fishery management and conservation set forth in section 201(a) of this Act;

(18) "optimum", with respect to the yield from a fishery, means the amount of fish—

(A) which, if produced, will provide the greatest benefit to the Nation; and

(B) which is prescribed as such by the appropriate Council and the Secretary on the basis of the maximum sustainable yield from such fishery as modified by any relevant economic, social, and/or ecological factors;

(19) "person" has the meaning set forth in section 1 of Title I, United States Code, and, in addition, includes any government, including a foreign government, any entity of a government, and a citizen of a foreign nation;

(20) "Secretary" means the Secretary of Commerce, or his delegate;

(21) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other territories and possessions of the United States;

(22) "stock", with respect to any fish, means a type, species, or other category capable of management as a unit;

(23) "United States", when used in the geographical context, includes all States; and

(2) "vessel of the United States" means any boat, ship, contrivance, or other craft, however propelled or moved, which is—

(A) designed, used, or capable of being used for navigation on or under water; and

(B) documented under the laws of the United States or which is registered under the laws of any State.

TITLE I—FISHERY MANAGEMENT JURISDICTION OF THE UNITED STATES

EXTENT OF JURISDICTION

[Sec. 101] SEC. 101. (a) FISHERY CONSERVATION ZONE.—(1) There is established a zone contiguous to the territorial sea of the United States to be known as the fishery conservation zone. Within such zone the United States shall, except as provided in subsection (d) of this section, exercise exclusive fishery management authority. The inner boundary of this zone is a line formed by the seaward boundaries of the coastal States, and the outer boundary of this zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline by which the territorial sea is measured.

[Sec. 102(2)] (b) ANADROMOUS SPECIES.—The United States shall exercise, throughout the migratory range of each applicable species, exclusive fishery management authority over anadromous species of fish spawned in the fresh and estuarine waters of the United States: *Provided*, That such management authority shall not extend to such species during the time they are found within the territorial sea or the fishery conservation zone (or the equivalent thereof) of any other nation, as recognized by the United States.

[Sec. 102(3)] (c) CONTINENTAL SHELF FISHERY RESOURCES.—The United States shall exercise exclusive fishery management authority over Continental Shelf fishery resources to the depth at which such resources can be exploited.

(d) **HIGHLY MIGRATORY SPECIES.**—The exclusive fishery management authority of the United States shall not include or be construed to extend to highly migratory species of fish. Such species shall be managed solely pursuant to international fishery agreements established for such purpose.

FOREIGN FISHING

[Sec. 201(a)] SEC. 102. (a) GENERAL.—The Secretary and the Secretary of State, after consultation with the Secretary of the Treasury, may authorize foreign fishing within the fishery conservation zone, for anadromous species, or for Continental Shelf fishery resources, in accordance with the provisions of this section and subject, where appropriate, to (1) title II of this Act, and regulations promulgated under such title, and (2) sections 301 and 302 of this Act.

[Sec. 201(d)] (b) ALLOWABLE LEVEL.—(1) The allowable level of total foreign fishing, if any, shall be set upon the basis of the portion of the allowable catch of any fishery or stock of fish which cannot or will not be harvested by vessels of the United States. Annual allowed foreign fishing and annual fishing by vessels of the United States shall not, for any fishery or stock of fish, exceed the optimum yield thereof. For purposes of this subsection, the term "allowable catch" means the surplus, from any fishery or stock of fish, which can be taken without exceeding the applicable optimum yield.

(2) In determining the allowable level of total foreign fishing with respect to any particular fishery or stock of fish, the Secretary and the Secretary of State shall utilize the best available scientific information, including, but not limited to, catch and effort statistics and relevant data compiled and made available by any foreign nation.

(3) In determining the allowable level of foreign fishing for any particular nation, with respect to any fishery or stock of fish subject to the exclusive fishery management authority of the United States, the Secretary and the Secretary of State shall consider whether, and to what extent, the vessels of such nation have traditionally fished in such fishery or for such stock.

[Sec. 201(f)] (c) RECIPROCITY.—Foreign fishing shall not be authorized for any foreign nation unless such nation satisfies the Secretary and the Secretary of State that it extends substantially the same fishing privileges to vessels of the United States, with respect to an equivalent fishery or stock of fish within its fishery conservation zone, or its equivalent, or for such nation's anadromous species or Continental Shelf fishery resources, if any.

[Secs. 102(g); 303(a)] (d) CONDITIONS.—The Secretary and the Secretary of State shall establish appropriate conditions on foreign fishing, which shall be complied with by any foreign-flag fishing or fishing-support vessel of any nation which is authorized to fish pursuant to subsection (a) of this section. Such conditions shall be consistent with the national standards, the fishery management plans, and the management regulations under title II of this Act.

[Secs. 303(a); 303(a)(5)] (e) MISCELLANEOUS.—(1) The Secretary, through the National Oceanic and Atmospheric Administration, shall verify the authenticity of foreign catch statistics and any other

relevant data furnished for purposes of this section. The Secretary may require that observers of placed aboard foreign-flag fishing and fishing-support vessels authorized to fish pursuant to subsection (a) of this section, to the extent deemed necessary by the Secretary to ensure that accurate catch statistics are reported and that the applicable allowable level is not exceeded.

(2) The Secretary shall establish a schedule of reasonable fees which shall be paid to the Secretary by any foreign-flag fishing or fishing-support vessel authorized to fish pursuant to subsection (a) of this section. [Sec. 204(b)(10)] In determining the level of such fees, the Secretary may take into account the cost of management, research, administration, enforcement, the value of the fishing privilege, and other relevant factors. The fees charged may vary from different categories of fishermen, to the extent deemed reasonable and appropriate.

(3) All pertinent information relating to foreign fishing, including that which is authorized to be collected by the Secretary, shall be made available publicly and shall be published, in summary form, where appropriate, in the Federal Register. [Sec. 204(b)(4)]

(4) No vessel of a foreign nation authorized to fish pursuant to subsection (a) of this section shall engage in such fishing unless and until the owner or operator thereof establishes and maintains a place of business in the United States and names an agent in a State who is authorized to receive legal process. [Sec. 201(c)(2)(F)]

(f) PROHIBITION.—Except as provided pursuant to this Act, it shall be unlawful for any vessel, or for any master or other person in charge of any vessel, except a vessel of the United States, to engage in fishing in the internal waters, the territorial sea, or the fishery conservation zone of the United States, or to engage in fishing for anadromous species or Continental Shelf fishery resources. [Secs. 201(a); 204(a)]

INTERNATIONAL FISHERY AGREEMENTS

SEC. 103. (a) GENERAL. [Secs. 202(a); 202(b); 202(c)]—(1) The Secretary of State, in cooperation with the Secretary, shall initiate and conduct negotiations with any foreign nation which, prior to the date of enactment of this Act, has been engaged in, or whose citizens have been engaged in, or wish to engage in, fishing within the fishery conservation zone of the United States, or for anadromous species or Continental Shelf fishery resources. The Secretary of State, upon the request of and in cooperation with the Secretary, shall, in addition, initiate and conduct negotiations with any foreign nation in whose fishery conservation zone, or its equivalent, vessels of the United States are engaged, or wish to be engaged, in fishing, or with respect to anadromous species or Continental Shelf fishery resources as to which such nation asserts management authority and for which vessels of the United States fish, or wish to fish. The purpose of such negotiations shall be to conclude international fishery agreements to effectuate the purpose, policy, and provisions of this Act. [Sec. 202(a)(5)]

(2) Such agreements may include, but need not be limited to, agreements to provide for the management and conservation of—

(A) coastal species which are found both in the fishery conservation zone of the United States and in an adjacent foreign nation's equivalent of such zone: [Sec. 202(a)(4)(A)]

(B) anadromous species which are found, during the course of their migration, in ocean areas subject to the fishery management authority of more than one nation, or which intermingle on the high seas with anadromous species originating in the rivers and estuaries of other nations: [Sec. 202(a)(4)(B)]

(C) highly migratory species which may be covered by international fishery agreements [Sec. 202(a)(4)(B)]; and

(D) coastal species or Continental Shelf fishery resources which are found in areas subject to the fishery management authority of any foreign nation, through measures which allow vessels of the United States to harvest an appropriate portion of such species in accordance with traditional fishing by vessels of the United States.

[Sec. 202(a)(4)]

(b) REVIEW. [Secs. 202(a); 202(b); 202(c)]—The Secretary of State shall immediately review, in cooperation with the Secretary, each treaty, convention, and other international agreement to determine whether the provisions of such agreements are consistent with the purposes, policy, and provisions of this Act. If any provision or terms of any such agreement are not so consistent, the Secretary of State shall initiate negotiations to amend or terminate such agreements by not later than September 30, 1976.

(c) BOUNDARY AGREEMENTS. [Sec. 202(d)]—The Secretary of State is authorized and directed to initiate and conduct negotiations with adjacent foreign nations to establish the boundaries of the fishery conservation zone of the United States in relation to any such nation.

(d) NONRECOGNITION [Sec. 202(e)].—It is the sense of the Congress that the United States Government shall not recognize the claim of any foreign nation to a fishery conservation zone, or its equivalent, beyond 12 nautical miles from the baseline from which the territorial sea is measured, if such nation—

(1) fails to recognize traditional fishing activity of vessels of the United States, if any, within such zone;

(2) fails to recognize traditional fishing activity of vessels of the United States with respect to anadromous species or Continental Shelf fishery resources as to which such nation asserts management authority; or

(3) fails to recognize and accept that highly migratory species are to be managed by applicable international fishery agreements, whether or not such nation is a party to any such agreement.

TERMINATION OF TITLE

SEC. 104. [Sec. 401] The provisions of this title shall expire and cease to be of any legal effect on such date as a law of the sea treaty (or other comprehensive treaty, convention, or agreement with respect to fishery jurisdiction, which the United States has signed or is a party to) shall come into force or be provisionally applied by the United States.

TITLE II—NATIONAL FISHERY MANAGEMENT PROGRAM

NATIONAL STANDARDS

SEC. 201. (a) **GENERAL** [Sec. 301(a)].—Fishery management plans developed by the Councils, and management regulations promulgated by the Secretary, pursuant to this title, shall conform to the following national standards for fishery management and conservation:

(1) Management and conservation measures shall prevent overfishing and assure on a continuing basis, the optimum yield for each fishery.

(2) Management and conservation measures shall be based upon the best scientific information available.

(3) To the extent possible, and individual stock of fish shall be managed as a unit throughout its range and interrelated stocks of fish shall be managed as a unit or in close coordination.

(4) Management and conservation measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(5) Management and conservation measures shall, where appropriate, promote efficiency in the utilization of fishery resources.

(6) Management and conservation measures shall allow for unpredicted variations in fishery resources and their environment and for contingencies and possible delays in application.

(7) Management and conservation measures shall, where appropriate, minimize research, administration, and enforcement costs and shall avoid unnecessary duplication.

(b) **GUIDELINES** [Sec. 301(b)].—The Secretary shall establish guidelines, based on the national standards, for the Councils to follow in developing fishery management plans and in developing recommended regulations for the management and conservation of fisheries.

REGIONAL FISHERY MANAGEMENT COUNCILS

SEC. 202. (a) **ESTABLISHMENT** [Sec. 302(a)].—There shall be established, within 120 days after the date of enactment of this Act, seven Regional Fishery Management Councils, as follows:

(1) The North Atlantic Fishery Management Council (hereafter in this title referred to as the "North Atlantic Council"). The North Atlantic Council, which shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, shall be concerned with the fisheries in the Atlantic Ocean seaward of such States.

(2) The South Atlantic Fishery Management Council (hereafter in this title referred to as the "South Atlantic Council"). The South Atlantic Council, which shall consist of the States of North Carolina, South Carolina, Georgia, and Florida, shall be concerned with the fisheries in the Atlantic Ocean seaward of such States.

(3) The Gulf of Mexico Fishery Management Council (hereafter in this title referred to as the "Gulf Council"). The Gulf Council, which shall consist of the States of Texas, Louisiana, Mississippi, Alabama, and Florida, shall be concerned with the fisheries in the Gulf of Mexico seaward of such States.

(4) The Pacific Fishery Management Council (hereafter in this title referred to as the "Pacific Council"). The Pacific Council, which shall consist of the States of California, Oregon, Washington, Idaho, and Alaska, shall be concerned with the fisheries in the Pacific Ocean seaward of California, Oregon, and Washington.

(5) The Caribbean Fishery Management Council (hereafter in this title referred to as the "Caribbean Council"). The Caribbean Council, which shall consist of the Virgin Islands and the Commonwealth of Puerto Rico, shall be concerned with the fisheries in the Caribbean seaward of such States.

(6) The North Pacific Fishery Management Council (hereafter in this title referred to as the "North Pacific Council"). The North Pacific Council, which shall consist of the States of Alaska and Washington, shall be concerned with the fisheries in the northern Pacific Ocean seaward of Alaska.

(7) The Outer Pacific Fishery Management Council (hereafter in this title referred to as the "Outer Pacific Council"). The Outer Pacific Council, which shall consist of the States of Hawaii, American Samoa, Guam, and the Trust Territories of the Pacific, shall be concerned with the fisheries seaward of such States.

(b) REPRESENTATION OF STATES [Sec. 302(b)].—Each Regional Fishery Management Council shall reflect the expertise and interests of the several identified States in the ocean area which such Council is granted authority. Each identified State is entitled to three members on each applicable Council, except that in the case of the Caribbean Council, the Virgin Islands and Puerto Rico are entitled to four members each, and in the case of the North Pacific Council, Alaska is entitled to five members.

(c) APPOINTMENTS [Sec. 302(b)].—(1) The Governor of each State entitled to membership on a Council may submit to the President a list setting forth the names of individuals qualified to be appointed as members of such Council as representatives of each such State. The President shall appoint, by and with the advice and consent of the Senate, the members to represent each State in the number set forth in subsection (b) of this section, at least one of whom shall be a State official with expertise in fishery management. The terms of office of the members first taking office shall expire as designated by the President at the time of nomination—one at the end of the second year, one at the end of the fourth year, and one at the end of the sixth year. Successors to such members shall be appointed in the same manner as the original

members, except that members who have faithfully attended and effectively contributed, in the public interest, to the functioning of such Council are eligible for reappointment. The terms of office of successors to such members shall expire 6 years from the date of expiration of the terms for which their predecessors were appointed. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of such term. As used in this paragraph, a "qualified" individual is one who is knowledgeable and capable of making sound judgments in the public interest with respect to the management and conservation of fishery resources.

(2) **[Sec. 302(c)]** The President shall appoint, upon the recommendation of the Secretary, a Federal Government employee to serve on each Council as the representative of the Secretary.

(3) **[Sec. 302(d)]** Members of a Council, who are not otherwise employed in any capacity by the Federal or any State or local government, shall receive compensation at the daily rate for GS-18 of the General Schedule, when engaged in the actual performance of duties for such Council, and all members shall be reimbursed for actual expenses incurred in the performance of such duties.

(c) **POWERS AND FUNCTIONS [Sec. 302(h)].**—In addition to any other function assigned under any other provision of this Act, each Council, in accordance with the provisions of this title—

(1) shall select a chairman;

(2) may appoint, and assign duties to, an executive director and such other full- and part-time employees as are necessary to conduct business, and persons to committees as provided in subsection (e) of this section;

(3) shall identify fisheries in need of conservation within its geographic area of authority;

(4) shall develop, and submit to the Secretary, an overall fishery management plan, including separate programs for each fishery, within its respective geographic area of authority, which is in need of management and conservation;

(5) shall develop, and submit to the Secretary, recommended regulations for the management and conservation of fish within its geographic area of authority;

(6) shall monitor fishing activity and review the impact of management regulations within its geographic area of authority and may recommend to the Secretary any appropriate amendments or changes therein;

(7) shall conduct public hearings, at appropriate times and in appropriate locations, so as to allow all interested persons an opportunity to be heard on (A) the overall fishery management plan; (B) any separate management program; (C) recommended regulations; and (D) any amendments to regulations;

(8) may otherwise carry out such other functions as are necessary and appropriate for the effective management and conservation of fishery resources within its geographic area of authority; and

(9) shall report to the Secretary on its activities, plans, programs, findings, and such other matters as are requested.

(d) **SUPPORT [Sec. 302(f)(3)].**—The Secretary shall provide to each Council such administrative support as is necessary for effective functioning.

(e) **COMMITTEES [Sec. 302(a)].**—(1) Each Council shall establish, maintain, and appoint the members of, a scientific and statistical committee to assist it in the development, collection, and evaluation of such statistical, biological, economic, and other scientific information as is relevant to management plans or recommended regulations. Each such committee shall be composed of (A) not more than six fisheries scientists and experts, and (B) the director of the appropriate regional research center of the National Marine Fisheries Service, who shall serve as the Chairman.

(2) Each Council shall establish and maintain ad hoc or standing committees for each individual fishery identified by it as in need of conservation, to the extent necessary to assist such Council in the preparation of (A) management programs, (B) recommended regulations, and/or (C) changes or amendments to existing plans or regulations. The members of such committees shall be appointed by the respective councils, and they shall be selected to represent persons who are actually engaged in the fishery involved and to include other persons knowledgeable and interested in the conservation of such fishery.

(3) Members of the committees established pursuant to paragraph (1) and (2) of this subsection shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as provided in section 5703 of title 5, United States Code, for persons in Government service intermittently.

(f) **MISCELLANEOUS PROVISIONS.**—(1) No Council shall have any authority to develop a fishery management plan, or to recommend regulations, with respect to fisheries which are principally located in waters within the boundaries of a single State. **[Sec. 305(b)]**

(2) Whenever a fishery extends beyond the geographic area of authority of a single Council, the appropriate Councils shall coordinate or combine their efforts as necessary. **[Sec. 304(f)]**

SEC. 203. (a) GENERAL [Sec. 303(a)].—As soon as practicable, each Council, or the Secretary, shall identify fisheries in need of conservation. The appropriate Council shall develop (1) a fishery management plan for each such fishery in the order needed; and (2) recommended management regulations as required for the implementation and maintenance of each such plan. Such Council shall submit each such plan and recommend regulations to the Secretary as soon as practicable. Such a plan shall include—

(A) a description of the fishery, including, but not necessarily limited to, the number of vessels involved; the type of gear used; the species of fish involved and their location; the costs likely to be incurred in management; the potential revenue from the fishery; the recreational interests in the fishery; and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(B) a summary of the best scientific information available with respect to the present and probable future condition of, and the maximum sustainable yield from, the fishery;

(C) an assessment of (i) the capacity and desire of vessels of the United States to harvest the optimum yield from the fishery, and (ii) the surplus in the fishery which can be made available for foreign fishing without risk of overfishing; and

(D) any other relevant and appropriate information, data, and evaluations.

(b) **TYPE OF REGULATIONS [Sec. 303(b)].**—Recommended management regulations developed under subsection (a) of this section may—

(1) designate zones where, and designate periods when, fishing shall be limited to, or shall not be permitted, or shall be permitted only as to specified vessels or gear;

(2) establish a system which shall, directly or indirectly, limit access to a fishery on a basis which shall recognize, among other considerations, present participation in the fishery, historical fishery practices and dependence on the fishery, the value of existing investments in vessels and gear, the value of the fishing privilege, capability of existing vessels to direct their efforts to other fisheries, State limited access systems, history of compliance with applicable fishing regulations, the optimum yield of the fishery, and the cultural and social framework in which the fishery is conducted;

(3) establish limitations on the catch of fish in any fishery, based on area, species, size, number, weight, sex, incidental catch, total biomass or quotas, and other factors which are necessary for the conservation of such fish;

(4) prohibit, limit, condition, or require the use of specified types of fishing gear, vessels, or equipment for such vessels including devices which may be required solely or partially to facilitate enforcement of this title or the regulations issued hereunder;

(5) require a license or permit to be issued by the Secretary as a condition to engaging in any fishery, upon such terms as may be prescribed, including the payment of fees appropriate to the value of the fishing license or permit;

(6) require catch and other appropriate statistics from fishermen and processors; and

(7) mandate or encourage such other management and conservation measures as are necessary or appropriate to carry out the purposes of this Act.

(c) **REVIEW [SEC. 304(b)].**—(1) The Secretary shall review each management regulation which is recommended and submitted to him by Council to determine whether it is consistent with (A) the national standards and (B) the provisions and requirements of this Act and any other applicable law; before he issues a notice of proposed rulemaking regarding management regulations for the applicable fishery. If such recommended regulations are determined to be so consistent, the Secretary shall adopt them and shall publish, immediately thereafter, a notice of proposed rulemaking with regard thereto. If the recommended regulations are determined not to be so consistent, the Secretary shall notify the applicable Council of such inconsistency and shall indicate the changes that are necessary to make such recommended regulations so consistent. Such Council may change the

recommended regulations to make them consistent: *Provided*, That if the Council does not make the necessary changes within 60 days after it receives notice from the Secretary, the Secretary shall make the necessary changes and shall, thereupon, issue the notice of proposed rulemaking.

(2) If any recommended management regulations involve methods and procedures for enforcement at sea, the Secretary shall consult with the Secretary of the department in which the Coast Guard is operating. **[Sec. 304(b)(2)]**

(3) If any recommended management regulations would apply to foreign fishing, the Secretary shall consult with the Secretary of State. **[Sec. 304(b)(1)]**

(d) **PROPOSED RULEMAKING [Sec. 305(a)]**.—The Secretary shall publish, in the Federal Register, any management regulations which he proposes to promulgate pursuant to this Act. Each such notice (1) shall request comment thereon; (2) shall designate the fishery or fisheries to which they apply; and (3) shall summarize the recommendations of the applicable Council or Councils, including, where appropriate, an explanation of how the proposed regulations differ from those so recommended and the reasons therefor.

(e) **REGULATIONS [Secs. 304(c); 305(a)]**.—The Secretary is authorized to promulgate regulations, in accordance with the provisions of this title and section 553 of title 5, United States Code, without regard to subsection (a) thereof, to govern fishing by vessels of the United States and foreign fishing (1) within the fishery conservation zone (and vessels of the United States fishing for coastal species beyond such zone), (2) for anadromous species, and (3) Continental Shelf fishery resources. In addition, such regulations shall pertain to, but need not be limited to, the operation of the Councils, the setting of fees, procedures for obtaining data and statistics relating to fishing, and other matters relating to the purposes of this Act. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments, with any coastal State, and with any foreign nation, through the Secretary of State, and for consideration of the views of any interested member of the general public. The Secretary is further authorized, consistent with the purposes and provisions of this title, to amend or rescind any such regulations.

(f) **EMERGENCY ACTION [Sec. 305(e)]**.—If the Secretary determines that an emergency situation exists requiring immediate action in the national interest to protect any fishery resources, he shall prepare and promulgate emergency management regulations as soon as practicable. Such regulations shall be issued in accordance with the provisions of section 553 of title 5, United States Code, without regard to subsection (a) thereof.

(g) **ACTION BY GENERAL PUBLIC [Sec. 305(a)(2)(B)]**.—Any coastal State, or any interested member of the general public, may nominate a fishery as a fishery in need of regulation, by submitting a written statement to the Secretary identifying such fishery and describing the reasons why it should be managed. The Secretary shall promptly forward each such nomination to the appropriate Council for action.

(h) **OVERVIEWS [Sec. 304(b)]**.—The Secretary shall from time to time review the action of the Councils to determine whether the Coun-

cils are acting in timely fashion. If the Secretary determines that a Council has failed to recommend management regulations for any fishery within a reasonable time, he shall prepare management regulations and submit them to such Council. [Sec. 304(c)] Such Council may make changes in such regulations consistent with the national standards: Provided, That if such Council does not make such changes within 45 days after it receives such a submission from the Secretary, the regulations shall stand, and the Secretary shall issue a notice of proposed rulemaking with regard to such regulation. [Sec. 304(e)]

(i) **FISHERIES RESEARCH.**—The Secretary shall initiate and maintain a program of fisheries research designed to acquire knowledge and information, including statistics, on fishery management and conservation, including, but not limited to, biological research concerning interdependence of species, the impact of pollution, the impact of wetland and estuarine degradation, and other factors bearing upon the abundance and availability of fish.

FISHERY MANAGEMENT REVIEW BOARD

SEC. 204. [Section not incorporated into Public Law 94-265] (a) **ESTABLISHMENT.**—There is established an independent instrumentality to be known as the Fishery Management Review Board. The Board shall have exclusive and original jurisdiction to hear the appeals described in subsection (c) of this section.

(b) **MEMBERSHIP.**—(1) The Board shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. Of such members at least three shall be individuals who shall be appointed by the President from a list of qualified individuals submitted to the President by the National Governor's Conference, such list to consist of not less than three such individuals for each vacancy. Members of the Board shall not engage in any other business, vocation, or profession during their term of office. As used in this paragraph, a "qualified" individual is one who is knowledgeable and capable of making sound judgments with respect to appeals before the Board.

(2) The members of the Board shall be appointed for a term of 3 years, except that (A) the terms of office of the member first taking office shall expire as designated by the President at the time of nomination; and (B) any individual appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and in the same manner in which such predecessor was appointed. Successors to the members of the Board first taking office shall be appointed in the same manner as the original members. Each member of the Board shall be eligible for reappointment.

(3) The members of the Board shall select one of their number to serve as Chairman.

(4) The Board is authorized to appoint an executive secretary and such administrative law judges and other employees as are necessary for the proper performance of its duties.

(c) **APPEALS TO THE BOARD.**—(1) Any person who is adversely affected or aggrieved by, or who suffers legal wrong through (A) any final management regulation promulgated by the Secretary pursuant

to this title, or (B) a decision by the Secretary to issue, transfer, revoke, suspend, modify, or renew a license or permit, may obtain review of such action by the Board if he files a request therefor with the Board not later than 60 days after the date of publication of such final regulation or decision.

(2) Any Council whose recommended management regulations were determined by the Secretary to be not consistent with the national standards may obtain review of the Secretary's action by the Board if it files a request therefor with the Board not later than 60 days after the date of publication of any final management regulation involved.

(3) In any action under this section, the Secretary or any affected Council, if not a party, may intervene as a matter of right.

(4) Review proceedings under this section shall be in accordance with the provisions of section 554 of title 5, United States Code. To the extent possible, such proceedings shall be held in the locality closest to the fishery involved. If the Board finds that justice so requires, it may issue an order (A) postponing the effective date of an action of the Secretary or (B) preserving the status or rights of any person, pending the outcome of such review proceedings.

(d) REVIEW STANDARD.—(1) In any review requested by a Council relating to any management regulation, the Board shall uphold the action of the Secretary unless it finds that his action—

(A) was not consistent (i) with the national fishery standards or (ii) with the provisions and requirements of this Act or any other applicable law;

(B) was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(C) was contrary to constitutional right, privilege, power to immunity;

(D) was clearly not supported by the facts and record available to the Secretary; or

(E) did not observe the procedure required by this Act or other law.

If the Board does not uphold the action of the Secretary, it shall enter a final decision declaring such action invalid together with the reasons therefor; remanding the matter to the Secretary; and directing the Secretary to take, after consultation with the affected Council, appropriate action.

(2) In an appeal relating to any other matter, the scope of review shall be as set forth in section 706 of title 5, United States Code.

(e) POWERS.—(1) The Board or any member thereof may, for the purpose of carrying out the provisions of this section, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or other order the attendance and testimony of such witnesses and the production of such evidence as the Board or member deems advisable. Subpenas may be issued under the signature of the Chairman of the Board, or that of any duly designated member of the Board, and may be served by any person designated for such purpose by such Chairman. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Such attendance of witnesses and production may

be required from any place in the United States to any place designated for such hearing.

(2) In case of refusal to obey a subpoena or other order, issued under paragraph (1) of this subsection, by any person who resides, is found, or transacts business within any judicial district of the United States, the district court of the United States for any such district shall have jurisdiction and shall, upon the request of the Chairman of the Board, issue to such person an order to appear and produce evidence. Any failure to obey such an order shall be punishable by such court as a contempt of court.

(3) The Administrator of General Services shall furnish the Board with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(f) **COMPENSATION.**—Members of the Board shall be compensated at the rate provided for level V of the Executive Schedule (5 U.S.C. 5316), and shall be reimbursed for travel expenses, including per diem in lieu of subsistence.

(g) **JUDICIAL REVIEW.**—Any person who is adversely affected or aggrieved by, or who suffers legal wrong through, a decision of the Board may, not later than 60 days after the date of any such decision, seek judicial review of such decision in the United States Court of Appeals for the circuit nearest to the fishery involved.

RELATIONSHIP TO STATE LAWS

SEC. 205. [Sec. 306] Nothing in this Act shall be construed to extend the jurisdiction of any State over any natural resources beneath and in the waters beyond its seaward boundaries, or to diminish the jurisdiction of any State over any natural resource beneath and in the waters within its boundaries.

INTERSTATE COOPERATION AND UNIFORM LAWS

SEC. 206. [Section not incorporated into 94-265] The Secretary shall encourage cooperative action by the States and Councils for the management and conservation of coastal and anadromous species of fish and Continental Shelf fishery resources, and shall encourage, insofar as practicable, the enactment of improved and uniform State laws relating to the management and conservation of such fish.

TITLE III—MISCELLANEOUS PROVISIONS

PROHIBITED ACTS AND PENALTIES

SEC. 301 [Sec. 307] (a) **PROHIBITED ACTS.**—(1) It is unlawful for any person to—

(A) violate any provision of this Act, or any regulation issued hereunder, regarding fishing within the fishery conservation zone or with respect to anadromous species or Continental Shelf fishery resources;

(B) violate any provision of any international fishery agreement to which the United States is a party and which is negoti-

ated or reviewed pursuant to this Act, to the extent that such agreement applies to or covers fishing within the fishery conservation zone;

(C) ship, transport, purchase, sell or offer for sale, import, export, possess, control, or maintain in his custody any fish taken in violation of paragraphs (A) or (B) of this subsection, if such person knew or had reason to know that such taking was not lawful;

(D) refuse to permit a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, to board a fishing vessel or fishing-support vessel subject to his control, if the purpose of such requested boarding is to inspect the catch, fishing gear, ship's log, or other records or materials aboard such vessel; or

(E) fail to cooperate with a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, engaged in a reasonable inspection pursuant to paragraph (D) of this subsection, or to resist any lawful arrest.

(2) For the purposes of this section, it shall be a rebuttable presumption that all fish found on board a vessel seized in connection with an act prohibited under this section were taken or retained in violation of this Act.

(b) **CRIMINAL PENALTIES [Sec. 309].**—Any person who willfully commits an act prohibited by subsection (a) of this section shall, upon conviction, be fined not more than \$100,000 or imprisoned for not more than 1 year, or both.

(c) **CIVIL FORFEITURE [Sec. 310].**—(1) Any district court of the United States shall have jurisdiction, upon application by the Secretary or the Attorney General, to order forfeited to the United States any fish or fishing gear, used, intended for use, or acquired by, activity in violation of any provision of subsection (a) of this section. In any case such proceeding, such court may at any time enter such restraining orders or prohibitions or take such other actions as are in the interest of justice, including the acceptance of satisfactory performance bonds in connection with any property subject to civil forfeiture.

(2) If a judgment is entered for the United States under this subsection, the Attorney General is authorized to seize all property or other interest declared forfeited upon such terms and conditions as are in the interest of justice. All provisions of law relating to the disposition of forfeited property, the proceeds from the sale of such property, the remission or mitigation of forfeitures for violation of the customs laws, and the compromise of claims, shall apply to civil forfeitures incurred, or alleged to have been incurred, under this subsection, insofar as applicable and not inconsistent with the provisions of this section. Such duties as are imposed upon the collector of customs or any other person with respect to seizure, forfeiture, or disposition of property under the customs laws shall be performed with respect to property used, intended for use, or acquired by activity in violation of any provision of subsection (a) of this section by such officers or other persons as may be designated for that purpose by the Secretary.

ENFORCEMENT

SEC. 302. (a) **GENERAL [Sec. 311(a)]**.—The provisions of this Act shall be enforced, together with regulations issued hereunder by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, or any State agency, in the performance of such duties.

(b) **POWERS [Sec. 311(b)]**.—Any person, duly authorized pursuant to subsection (a) of this section, may—

(1) board and inspect any fishing vessel or fishing-support vessel which is within the fishery conservation zone, or which he has reason to believe is fishing for anadromous species or Continental Shelf fishery resources;

(2) arrest any person, with or without a warrant, if he has reasonable cause to believe that such person has committed an act prohibited by section 301(a) of this title;

(3) execute any warrant or other process issued by an officer or court of competent jurisdiction; and

(4) seize all fish and fishing gear found aboard any fishing vessel or fishing-support vessel which is engaged in any act prohibited by section 301(a) of this title.

(c) **COURTS [Sec. 311(b)]**.—The district courts of the United States shall have exclusive jurisdiction over all cases or controversies arising under this Act, except as provided in section 204 of this Act. Such courts may issue all warrants, or other process, to the extent necessary or appropriate. In the case of Guam, actions may be brought and process may be issued by the District Court of Guam; in the case of the Virgin Islands, by the District Court of the Virgin Islands; and in the case of American Samoa, by the District Court for the District of Hawaii. The aforesaid courts shall have jurisdiction over all such cases and controversies without regard to the amount in controversy or the citizenship of the parties.

REPEAL

SEC. 303. (a) **[Sec. 402(a)]** The Act of October 14, 1966 (16 U.S.C. 1091–1094), is repealed.

(b) **[Sec. 402(b)]** The Act of May 20, 1964 (16 U.S.C. 1081–1086), as amended by the Act of July 26, 1968 (82 Stat. 445), is repealed.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 304. **[Sec. 406]** There are authorized to be appropriated for the purposes of this Act—

(1) to the Secretary such sums as are necessary, not to exceed \$22,000,000 for the fiscal year ending June 30, 1976; not to exceed \$5,500,000 for the transitional fiscal quarter ending September 30, 1976; and not to exceed \$22,000,000 for the fiscal year ending September 30, 1977; and

(2) to the Secretary of the department in which the Coast Guard is operating such sums as are necessary, not to exceed \$13,000,000 for the fiscal year ending une 30, 1976; not to exceed \$3,250,000 for the transitional fiscal quarter ending September 30, 1976; and not to exceed \$13,000,000 for the fiscal year ending September 30, 1977.

AGENCY COMMENTS

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 23, 1975.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to your request for this Department's views on S. 961, a bill "To extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish and depletion, and for other purposes."

S. 961 would establish a contiguous fisheries zone of 200 miles for the exclusive fishery management responsibility of the United States and extend United States responsibility for the anadromous fish to wherever it is found in its migratory pattern, except the contiguous zone of other nations. Foreign fishermen would be allowed to fish in the zone, at the discretion of the Secretaries of State, Commerce and Treasury, provided the foreign nation reciprocates. It would also establish a Fisheries Management Council which would prepare a plan for marine fisheries conservation and consult with Federal and State Governments on fisheries management. The bill would also authorize the Secretary of State to negotiate international fishing agreements and carries criminal and civic sanctions for violating the provisions of, or regulations promulgated under, the bill regarding fisheries management conservation.

Because this legislation pertains primarily to commercial fisheries and because the Federal responsibility therefor has been transferred to the Department of Commerce pursuant to Reorganization Plan No. 4 of 1970, this Department has no special interest in S. 961. Accordingly, we will not plan to make comment unless, in light of the foregoing, your Committee requests us to do so.

Sincerely yours,

KEN M. BROWN,
Legislative Counsel.

APPENDIX I

LIST OF CONVENTION AND BILATERAL FISHERY AGREEMENTS TO WHICH
THE UNITED STATES IS A PARTY ¹

International Convention for the Regulation of Whaling, December 2, 1946, 62 Stat. 1716, TIAS 1849 (effective November 10, 1948). Termination—Indefinite. Member countries are: Argentina, Australia, Canada, Denmark, France, Iceland, Japan, Mexico, Norway, Panama, South Africa, U.S.S.R., U.K., United States. Areas of geographical interest Worldwide. Species concerned—Only whale resources.

Convention for the Establishment of an Inter-American Tropical Tuna Commission, May 31, 1949, 1 UST 230; TIAS 2044 (effective March 3, 1950). Termination—Indefinite. Member countries are: Costa Rica, United States, Mexico, Panama, Canada, Japan and France. Areas of geographical interest—Eastern Tropical Pacific. Species concerned—Yellowfin, skipack tuna and tuna bait fishes.

Convention on Conservation of North Pacific Fur Seals, February 9, 1957, 8 UST 2283; TIAS 3948 (effective October 14, 1957). Termination—Review in 1975. Member countries are: Canada, Japan, United States, U.S.S.R. Areas of geographical interest—North Pacific. Species concerned—Fur seals.

Convention with Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and the Bearing Sea, March 2, 1953, 5 UST; TIAS 2900 (effective October 28, 1953). Termination—Indefinite. Member countries are: Canada and United States. Areas of geographical interest—Eastern Bering Sea and Northeast Pacific. Species concerned—Halibut.

International Convention for the High Seas Fisheries of the North Pacific Ocean, May 9, 1952, 4 UST 380; TIAS 2786 (effective June 12, 1953). Termination—Indefinite. Member countries are: Canada, Japan, United States. Areas of geographical interest—North Pacific. Species concerned—Fish and shellfish resources, particular emphasis is on salmon, halibut and herring.

Convention with Canada on the Sockeye Salmon Fisheries, May 26, 1930, 50 Stat. 1355 (effective July 25, 1937). Termination—Indefinite. Member countries are: Canada and United States. Areas of geographical interest—Fraser River, Puget Sound, Strait of Juan de Fuca. Species concerned—Sockeye salmon (includes pink salmon as a result of a 1956 Protocol to the Convention).

International Convention for the Northwest Atlantic Fisheries, February 8, 1949, 1 UST 477; TIAS 2059 (effective July 3, 1950). Termination—Indefinite. Member countries are: Bulgaria, Canada, Denmark, Federal Republic of Germany, France, Iceland, Italy, Japan, Norway, Poland, Portugal, Romania, U.S.S.R., Spain, U.K., United States. Areas of geographical interest—Western Atlantic from Rhode Island east and north to Davis Strait. Species concerned—Special emphasis has been put on haddock, yellowtail flounder and herring. Other regulated species include red and silver hake, mackerel, pollock, cod, redfish and harp and hood seals.

¹ Source: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce; January 1974.

- International Convention on the Conservation of Atlantic Tunas*, May 14, 1966, TIAS 6767 (effective March 21, 1969). Termination—Indefinite. Member countries are: Japan, Canada, United States, Brazil, France, Portugal, Spain, Morocco, Ghana, Republic of South Africa, Korea, Senegal, and the Ivory Coast. Areas of geographical interest—All waters of the Atlantic Ocean. Species concerned—Tuna and tuna-like species.
- Agreement with Brazil on the Conservation of Shrimp*, May 9, 1972 (effective February 14, 1973). Termination—June 1974. Member countries are: United States and Brazil. Area of geographical interest—Large triangular area off northeast coast of Brazil. Species concerned—Shrimp.
- Agreement with the U.S.S.R. on the Middle Atlantic Fishery*, December 13, 1968, 19 UST 7661, TIAS 6603 (effective March 21, 1969) (2 years). Termination—December 1974. Member countries are: U.S.S.R. and United States. Areas of geographical interest—Middle Atlantic area and waters of the 50 to 100 fathoms zone from Rhode Island to Virginia and a small area within the U.S. contiguous zone off New Jersey and Long Island. Species concerned: Scup, flounder and other groundfish, river herring, red hake, silver hake, black sea bass, bluefish, menhaden and lobster.
- Agreement with South Korea Concerning Cooperation in Fisheries*, November 24, 1972, TIAS 7517 (effective December 12, 1972) (5-year agreement). Termination—December 1977. Member countries are: United States and South Korea. Area of geographical interest—North Pacific and Bering Sea east of 175° W., Longitude. Species concerned—Salmon and halibut.
- Agreement with Japan on the King and Tanner Fisheries of the Eastern Bering Sea*, November 25, 1964, 15 UST 2076, TIAS 7527 (effective November 25, 1964); modified and extended December 1972 (2 years). Termination—December 1974. Member countries are: Japan and United States. Areas of geographical interest—Western continental shelf of the United States. Species concerned—King and Tanner crabs.
- Agreement With Japan on the Contiguous Fishery Zone*, May 9, 1967, 18 UST 1309, TIAS 7528, modified and amended, December 1972 (2 years). Termination—December 1974. Member countries are: Japan and United States. Areas of geographical interest—North-east Pacific, Eastern Bering Sea, Gulf of Alaska and the U.S. contiguous zone off Alaska and the State of Washington. Species concerned—Species of mutual concern with emphasis on halibut, Pacific Ocean perch and blackcod.
- Agreement with U.S.S.R. on Fisheries Operations in the Northeastern Pacific (Gear Conflict)*, December 14, 1964, 15 UST 2179 (effective December 14, 1964), renegotiated February 1973 (2 years). Termination—February 1975. Member countries are: U.S.S.R. and United States. Area of geographical interest—Gulf of Alaska beyond the 12-mile fishery zone. Species concerned—King crab (Soviets agreed not to fish around Kodiak Islands for specified periods when U.S. king crab fishermen fish extensively with fixed crab gear).
- Agreement with the U.S.S.R. on the King and Tanner Crab Fisheries of the Eastern Bering Sea*, February 5, 1965, 16 UST 24; TIAS 5752 (effective February 5, 1965), negotiated and extended Feb-

ruary 1973 (2 years). Termination—February 1975. Member countries are U.S.S.R. and United States. Areas of geographical interest—U.S. continental shelf in the eastern Bering Sea. Species concerned—King and Tanner crabs.

Agreement with the U.S.S.R. on the Contiguous Fishery Zone, February 13, 1967, 18 UST 190; renegotiated and extended February 1973 (2 years). Termination—February 1975. Member countries are: U.S.S.R. and United States. Areas of geographical interest—Northeast Pacific including the U.S. contiguous zone. Species of mutual concern particularly interest on halibut, king crab, salmon and rockfish.

Agreement with U.S.S.R. Concerning Claims Resulting from Damage to Fishing Vessels or Gear and Measures to Prevent Fishing Conflicts, February 21, 1973 (effective February 21, 1973). Termination—Indefinite, review in February 1975. Member countries are U.S.S.R. and United States. Area of geographical interest—Northeastern Pacific, Bering Sea and Western areas of the Atlantic. Species concerned—primarily gear conflicts associated with crab, and halibut fisheries of the Northeastern Pacific and between lobster and mobile gear fisheries in the Western Atlantic.

Agreement with Poland Regarding Fisheries in the Western Region of the Middle Atlantic Ocean, June 12, 1969, modified and extended June 1973. (1 year). Termination—June 1975. Member countries are: Poland and United States. Areas of geographical interest—Western region of the Middle Atlantic Ocean and three areas within the United States and contiguous zone off Long Island, New Jersey and Virginia. Species concerned—Scup, flounders and other groundfish, red hake, silver hake, menhaden, river herring and black sea bass, bluefish and lobster. The Agreement also establishes a United States-Polish Fisheries Conciliation Board—to assist in the expeditions settlement of damage claims involving conflicts between fixed and mobile gear fisheries.

Agreement with Canada Concerning Reciprocal Fisheries Privileges, April 24, 1970, see 52 Department of State Bull. 640 (1970). (2 years), extended in April 1972 (1 year) and June 1973. Termination—April 1974. Member countries are: Canada and United States. Areas of geographical interest—The fishery contiguous zone extending along east and west coast of both nations, south of 63° N. Species concerned—Species of mutual concern with emphasis on Pacific salmon, and the transfer of herring on the east coasts of the United States and Canada (fishing for any species of clams lobsters, scallops and shrimp in the reciprocal fishing area of either country is excluded).

Agreement with Romania on Fisheries in the Western Region of the Middle Atlantic Ocean, December 4, 1973 (effective December 4, 1970). Termination: December 1975. Member countries: Romania and the United States. Areas of geographic interest: Western region of the Middle Atlantic Ocean. Species concerned: Scup, flounders and other groundfish, red hake, silver hake, manhaden, river herring, black sea bass, bluefish and lobster.

Convention on Fishing and Conservation of the Living Resources of the High Seas, April 29, 1958, TIAS 5969 (entered into force March 20, 1966). General applicability. One of the four 1958 Law of the Sea Treaties.

Convention on the Continental Shelf, April 29, 1958, TIAS 5578 (entered into force June 10, 1964). Gives exclusive jurisdiction to coastal state over creatures of the Continental Shelf. One of the four Law of the Sea Treaties.

APPENDIX II

NATIONS WHICH HAVE UNILATERALLY EXTENDED THEIR EXCLUSIVE FISHERY JURISDICTION
BEYOND 12 NAUTICAL MILES¹

Country	Exclusive fishing jurisdiction (nautical miles)	Notes
Argentina.....	200	
Brazil.....	200	
Cameroon.....	18	
Chile.....	200	
Congo.....	3-15	15 unconfirmed.
Costa Rica.....		"Specialized competence" over living resources to 100 mi.
Ecuador.....	200	
El Salvador.....	200	
Gabon.....	100	
Gambia.....	50	Unconfirmed. Some apparent confusion in drafting of Act No. 9, 1969.
Ghana.....	30	
Guinea.....	130	
Haiti.....	15	Congressional Decree 25 of Jan. 17, 1951, set a 200-nmi territorial sea. Art. 5 of the Honduran Constitution accepts a 12-nmi limit, but the earlier 200-nmi limit is still on the books.
Iceland.....	50	
Iran.....	50	Limited in Persian Gulf to continental shelf boundaries.
Korea, Republic of.....		Archipelago principle.
Madagascar.....	50	
Maldives.....	² 100	Maximum 150, letter to FAO, May 11, 1969.
Mauritania.....	30	
Morocco.....	70	Except for Strait of Gibraltar.
Nicaragua.....	200	
Nigeria.....	30	
Oman.....	50	
Pakistan.....	50	
Panama.....	200	
Peru.....	200	
Philippines.....		Archipelago principle.
Senegal.....	122	
Sierra Leone.....	200	
Somalia.....	200	
Tanzania.....	50	
Tonga.....		Do.
Tunisia.....	12	Exclusive fisheries zone follows the 50-m isobath for part of coast (maximum 65 mi).
Uruguay.....	200	
Vietnam, North.....	³ 20	
Vietnam, Republic of.....	50	

¹ Source: Limits in the Seas No. 36, National Claims to Maritime Jurisdiction (revised), The Geographer, Office of the Geographer, Bureau of Intelligence and Research, U.S. Department of State, Apr. 1, 1974.

² Approximate.

³ Kilometers.

Many nations also claim exclusive jurisdiction over certain "sedentary species" in accordance with article 2 of the 1958 Geneva Convention on the Continental Shelf. In addition, some states have proclaimed "fishery conservation zones" within which they reserve the right to regulate certain fishing activities, although no claim to exclusive fishery jurisdiction is made.

IN THE SENATE OF THE UNITED STATES

MARCH 5, 1975

Mr. MAGNUSON (for himself, Mr. BEALL, Mr. GRAVEL, Mr. HATHAWAY, Mr. HOLLINGS, Mr. JACKSON, Mr. KENNEDY, Mr. LONG, Mr. MCINTYRE, Mr. MOSS, Mr. MUSKIE, Mr. PACKWOOD, Mr. PASTORE, Mr. PELL, Mr. RANDOLPH, Mr. RIBICOFF, Mr. STEVENS, Mr. WEICKER, and Mr. WILLIAMS) introduced the following bill; which was read twice and referred to the Committee on Commerce

A BILL

To extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Emergency Marine Fish-
4 eries Protection Act of 1975".

5 DECLARATION OF POLICY

6 **[Sec. 2 (a)]** SEC. 2. (a) FINDINGS.—The Congress finds
7 and declares that—

1 (1) Valuable coastal and anadromous species of fish
2 off the shores of the United States are in danger of being
3 seriously depleted by excessive fishing effort.

4 (2) Stocks of coastal and anadromous species which
5 inhabit waters of the 3-mile territorial sea and the exist-
6 ing 9-mile contiguous fishery zone of the United States
7 are being depleted by foreign fishing efforts outside the
8 12-mile combined zone in which the United States pres-
9 ently possesses fishery management responsibility and
10 authority.

11 (3) International negotiations have so far failed to
12 result in effective international agreements on the con-
13 servation and management of threatened stocks of fish.

14 (4) There is danger that further depletion of these
15 fishery resources will occur before an effective general
16 international agreement on fishery jurisdiction can be
17 negotiated, signed, ratified, and implemented, unless
18 emergency action is taken pending such international
19 agreement.

20 **[Sec. 2 (b)](b) PURPOSES.**—It is therefore declared to
21 be the purpose of the Congress in this Act—

22 (1) to take emergency action to protect and con-
23 serve threatened stocks of fish by asserting fishery man-
24 agement responsibility and authority over fish in an
25 extended contiguous fishery zone and over certain species

1 of fish beyond such zone, until a general international
 2 agreement on fishery jurisdiction comes into force or is
 3 provisionally applied;

4 (2) to extend, as an emergency measure, the fishery
 5 management responsibility and authority of the United
 6 States to 200 nautical miles;

7 (3) to extend, as an emergency measure, fishery
 8 management responsibility and authority of the United
 9 States over anadromous species of fish which spawn in
 10 fresh or estuarine waters of the United States; and

11 (4) to commit the Federal Government to act to
 12 prevent further depletion, to restore depleted stocks, and
 13 to protect and conserve fish to the full extent of such
 14 emergency responsibility and authority, and to provide
 15 for the identification, development, and implementation
 16 within 1 year of the date of enactment of this Act of
 17 the best practicable management system consistent with
 18 the interests of the Nation, the several States, and of
 19 other nations.

20 **[Sec. 2 (c)] (c) POLICY.**—It is further declared to the
 21 policy of the Congress in this Act—

22 (1) to maintain the existing territorial or other
 23 ocean jurisdiction of the United States without change,
 24 for all purposes other than the protection and conserva-
 25 tion of certain species of fish and fish in certain ocean

1 areas pending international agreement on fishery
2 jurisdiction;

3 (2) to authorize no action, activity, or assertion of
4 jurisdiction in contravention of any existing treaty or
5 other international agreement to which the United States
6 is party other than that necessary to further the pur-
7 poses of this Act; and

8 (3) to authorize no impediment to or interference
9 with the legal status of the high seas, except with re-
10 spect to fishing to the extent necessary to implement
11 this Act.

12 DEFINITIONS

13 **[Sec. 3]** SEC. 3. As used in this Act, unless the context
14 otherwise requires—

15 (1) “anadromous species” means those species of
16 fish which spawn in fresh or estuarine waters of the
17 United States but which migrate to ocean waters;

18 (2) “citizen of the United States” means any per-
19 son who is a citizen of the United States by birth, by nat-
20 uralization or other legal judgment, or, with respect to
21 a corporation, partnership, or other association, by orga-
22 nization under and maintenance, after the date of en-
23 actment of this Act, in accordance with the laws of
24 any State: *Provided*, That (A) the controlling inter-
25 est therein is owned or beneficially vested in individuals

1 who are citizens of the United States; and (B) the
2 chairman, and not less than two-thirds of the mem-
3 bers, of the board of directors or other governing board
4 thereof are individuals who are citizens of the United
5 States;

6 (3) "coastal species" means all species of fish
7 which inhabit the waters off the coasts of the United
8 States, other than highly migratory and anadromous
9 species;

10 (4) "contiguous fishery zone" means a zone con-
11 tiguous to the territorial sea of the United States within
12 which the United States exercises exclusive fishery man-
13 agement and conservation authority;

14 (5) "controlling interest" means (A) 75 percent
15 of the stock of any corporation, or other entity, is vested
16 in citizens of the United States free from any trust or
17 fiduciary obligation in favor of any person not a citizen
18 of the United States, (B) 75 percent of the voting
19 power in such corporation, or such other entity, is
20 vested in citizens of the United States, (C) no arrange-
21 ment or contract exists providing that more than 25
22 percent of the voting power in such corporation, or
23 such other entity, may be exercised in behalf of any
24 person who is not a citizen of the United States, and
25 (D) by no means whatsoever is control of any interest

1 in such corporation, or such other entity, conferred upon
2 or permitted to be exercised by any person who is not
3 a citizen of the United States: *Provided*, That any cor-
4 poration, or other entity, subject to a controlling inter-
5 est acquired prior to the date of enactment of this Act
6 with the approval of the Secretary granted pursuant to
7 section 9 or section 37 of the Shipping Act of 1916, as
8 amended (46 U.S.C. 808, 835), shall be deemed to be
9 subject to a controlling interest owned or beneficially
10 vested in individuals who are citizens of the United
11 States.

12 (6) "fish" includes mollusks, crustaceans, marine
13 mammals (except the polar bear, walrus, and sea otter),
14 and all other forms of marine animal and plant life (but
15 not including birds), and the living resources of the
16 Continental Shelf as defined in the Act of May 20,
17 1964 (78 Stat. 196) ;

18 (7) "fishing" means the catching, taking, harvest-
19 ing, or attempted catching, taking, or harvesting of any
20 species of fish for any purpose, and any activity at sea
21 in support of such actual or attempted catching, taking,
22 or harvesting ;

23 (8) "fishing vessel" means any vessel, boat, ship,
24 contrivance, or other craft which is used for, equipped

to be used for, or a type which is normally used for, fishing;

(9) "fishing-support vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or of a type which is normally used for, aiding or assisting one or more fishing vessels at sea in the performance of any support activity, including, but not limited to, supply, storage, refrigeration, or processing;

(10) "highly migratory species" means those species of fish which spawn and migrate during their life cycle in waters of the open ocean, including, but not limited to, tuna;

(11) "optimum sustainable yield" refers to the largest economic return consistent with the biological capabilities of the stock, as determined on the basis of all relevant economic, biological, and environmental factors;

(12) "person" includes any government or entity thereof (and a citizen of any foreign nation) ;

(13) "Secretary" means the Secretary of Commerce, or his delegate;

(14) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico,

1 American Samoa, the Virgin Islands, Guam, and the
2 territories and possessions of the United States;

3 (15) "stock", with respect to any fish, means a
4 type, species, or other category capable of management
5 as a unit;

6 (16) "traditional foreign fishing" means long-
7 standing, active, and continuous fishing for a particular
8 stock of fish by citizens of a particular foreign nation in
9 compliance with any applicable international fishery
10 agreements and with the laws of such foreign nation;
11 and

12 (17) "United States", when used in a geographical
13 context, includes all States.

14 FISHERIES MANAGEMENT RESPONSIBILITY

15 SEC. 4. (a) CONTIGUOUS FISHERY ZONE. [Sec.
16 101]—(1) There is established, for the duration of this Act,
17 a fishery zone contiguous to the territorial sea of the United
18 States. [Sec. 101] The United States shall exercise exclusive
19 fishery management responsibility and authority within this
20 contiguous fishery zone. [Sec. 102]

21 (2) The contiguous fishery zone has as its inner
22 boundary the outer limits of the territorial sea, and as its
23 seaward boundary a line drawn so that each point on the
24 line is 197 nautical miles from the inner boundary. [Sec.
25 101]

(3) Notwithstanding any other provision of law, the fishery management responsibility and authority of the United States within the contiguous fishery zone of the United States shall not include or be construed to extend to highly migratory species, except to the extent such species are not managed pursuant to bilateral or multilateral international fishery agreements. **[Sec. 103]**

[Sec. 102 (2)] (b) ANADROMOUS SPECIES.—(1) fishery management responsibility and authority of the United States with respect to anadromous species, for the duration of this Act, extends to such species wherever found throughout the migratory range of such species: *Provided*, That such responsibility and authority shall not extend to such species to the extent found within the territorial waters or contiguous fishery zone of any other nation.

(c) GENERAL.—The United States shall manage and conserve, and have preferential rights to, fish within the contiguous fishery zone, **[Sec. 201 (d)]** and with respect to anadromous species of fish, pursuant to the responsibility and authority vested in it pursuant to this section, subject to traditional foreign fishing rights as defined and recognized in accordance with section 5 of this Act. **[Sec. 201 (e) (1)]**

(d) REGULATIONS.—**[Sec. 305 (a) ; 305 (b) ; 305 (c)]**
The Secretary is authorized to promulgate such regulations

1 in accordance with section 553 of title 5, United States Code,
 2 as are necessary to implement the purposes of this Act. The
 3 Secretary is further authorized to amend such regulations
 4 in the manner originally promulgated.

5 FOREIGN FISHING RIGHTS

6 SEC. 5. (a) GENERAL [Sec. 201 (a)].—The Secretary
 7 and the Secretary of State, after consultation with the Secre-
 8 tary of the Treasury, may authorize fishing within the con-
 9 tiguous fishery zone of the United States, or for anadromous
 10 species or both, by citizens of any foreign nation, in accord-
 11 ance with this section, only if such nation has traditionally
 12 engaged in such fishing prior to the date of enactment of this
 13 Act. [Sec. 201 (e) (1)]

14 (b) PROVISIONS.—The allowable level of traditional
 15 foreign fishing shall be set upon the basis of the portion of
 16 any stock which cannot be harvested by citizens of the United
 17 States. [Sec. 201 (d)] Allowed traditional foreign fishing
 18 and fishing by citizens of the United States annually shall
 19 not, for any stock, exceed the optimum sustainable yield for
 20 such stock. [Sec. 201 (d)]

21 (c) RECIPROCITY [Sec. 201 (e)].—Traditional foreign
 22 fishing rights shall not be recognized pursuant to this section
 23 unless any foreign nation claiming such rights demonstrates
 24 that it grants similar traditional fishing rights to citizens of

1 the United States within the contiguous fishery zone of such
 2 nation, if any exist, or with respect to anadromous species
 3 which spawn in the fresh or estuarine waters of such nations.

4 (d) PROCEDURES.—(1) In determining the allowable
 5 level of foreign fishing with respect to any stock, the Sec-
 6 retary shall utilize the best available scientific information,
 7 including, but not limited to, catch and effort statistics and
 8 relevant available data compiled by any foreign nation claim-
 9 ing traditional fishing rights. The National Oceanic and At-
 10 mospheric Administration shall take steps to verify the au-
 11 thenticity of the foreign catch statistics and any other rele-
 12 vant data furnished for the purpose of this paragraph, includ-
 13 ing placing observers aboard foreign-flag fishing vessels as
 14 necessary during any fishing operations which may be
 15 authorized for foreign-flag fishing vessels pursuant to this
 16 Act. [Sec. 201 (c) (2) ; 201 (d) ; 201 (e) ; 201 (g)]

17 (2) The Secretary is authorized to establish reasonable
 18 fees which shall be paid by the citizens of any foreign nation
 19 engaged in exercising foreign fishing rights recognized under
 20 this section. Such fees shall be set in an amount sufficient
 21 to reimburse the United States for administrative expenses
 22 incurred pursuant to this section and for an equitable share
 23 of the management and conservation expenses incurred by
 24 the United States in accordance with this Act including the
 25 cost of regulation and enforcement. [Sec. 204 (a) (10)]

(c) PROHIBITION.—Except as provided in this Act, it shall be unlawful for any person not a citizen of the United States to own or operate a fishing vessel or fishing support vessel engaged in fishing in the internal waters, territorial sea, or contiguous fishery zone of the United States or for anadromous species of fish. [Sec. 201 (c) (2) (F)]

7 MARINE FISHERIES MANAGEMENT AND CONSERVATION
8 PLANNING

9 SEC. 6. (a) OBJECTIVES.—It is the intent of the Con-
10 gress that the following objectives be considered and included
11 (to the extent practicable) in plans, programs, and standards
12 for the management and conservation of marine fisheries;
13 (1) evaluation of actual and foreseeable costs and benefits at-
14 tributable thereto; (2) enhancement of total national and
15 world food supply; (3) improvement of the economic well-
16 being of fishermen; (4) maximum feasible utilization of
17 methods, practices, and techniques that are optimal in terms
18 of efficiency, protection of the ecosystem of which fish are a
19 part, and conservation of stocks and species; and (5) effec-
20 tuation of the purposes stated in section 2 (b) (4) of this Act.
21 Due consideration shall be given to alternative methods for
22 achieving these objectives. [Sec. 301)]

(b) FISHERIES MANAGEMENT COUNCIL [Sec. 302

(a)].—There is established a Fisheries Management Council

1 (hereinafter referred to as the "Council"). The Council shall
2 consist of 11 individual members, as follows:

3 (1) a Chairman, a qualified individual who shall be
4 appointed by the President, by and with the advice and
5 consent of the Senate;

6 (2) three Government members, who shall be the
7 Secretary, the Secretary of the department in which
8 the Coast Guard is operating, and the Secretary of
9 State, or their duly authorized representatives; and

10 (3) seven nongovernment members, who shall be
11 appointed by the President, by and with the advice and
12 consent of the Senate, on the following basis—

13 (A) three to be selected from a list of qualified
14 individuals recommended by each of the regional
15 fisheries commissions or their successors, one of
16 whom shall be a representative respectively of At-
17 lantic, Pacific, and Gulf of Mexico commercial fish-
18 ing efforts; and

19 (B) four to be selected from a list of qualified
20 individuals recommended by the National Governors
21 Conference, at least one of whom shall be a rep-
22 resentative of a coastal State.

23 As used in this paragraph, a list of qualified individuals

1 shall consist of not less than three individuals for each
2 Council member to be appointed.

3 As used in this subsection, "qualified individual" means an
4 individual who is distinguished for his knowledge and
5 experience in fisheries management and conservation,
6 and who is equipped by experience, known talents,
7 and interests to further the policy of this Act effec-
8 tively, positively, and independently if appointed to be a
9 member of the Board. The terms of office of the nongovern-
10 ment members of the Council first taking office shall expire
11 as designated by the President at the time of nomination—
12 two at the end of the first year; two at the end of the second
13 year; and three at the end of the third year. The term of
14 office of the Chairman of the Council shall be 2 years. Suc-
15 cessors to members of the Council shall be appointed in the
16 same manner as the original members and, except in the
17 case of Government members, shall have terms of office
18 expiring 2 years from the date of expiration of the terms
19 for which their predecessors were appointed. Any individual
20 appointed to fill a vacancy occurring prior to the expiration
21 of any term of office shall be appointed for the remainder
22 of that term.

23 (c) POWERS AND DUTIES [Sec. 302 (h)].—The Coun-
24 cil shall—

25 (1) engage in the preparation of a plan or plans
26 for marine fisheries management and conservation;

(2) provide information and expert assistance to States and local or regional fisheries authorities in marine fisheries management and conservation;

(3) adopt, amend, and repeal such rules and regulations governing the operation of the Council and as are necessary to carry out the authority granted under this section; conduct its affairs, carry on operations, and maintain offices; appoint, fix the compensation, and assign the duties of such experts, agents, consultants, and other full- and part-time employee as it deems necessary or appropriate;

(4) consult on an ongoing basis (A) with other Federal agencies and departments; (B) with officials of coastal States who are concerned with marine fisheries management and conservation planning; (C) with appropriate officials of other nations which are exercising traditional foreign fishing rights, through the good offices of the Secretary of State; and (D) with owners and operators of fishing vessels;

(5) enter into, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions and duties with any person (including a government entity) ;

1 (6) prepare a survey of fisheries subject to the emer-
2 gency conservation and management authority granted
3 to the United States by this Act, including, but not
4 limited to, depleted' stocks and stocks threatened with
5 depletion; and

6 (7) survey, study, and prepare a marine fisheries
7 management plan setting forth the elements of a national
8 management system to conserve and protect fish.

9 (d) REVIEW BY CONGRESS [Sec. 304 (b)].—The
10 Council shall submit the marine fisheries management plan
11 adopted by the Council to the Senate Committee on Com-
12 merce and the Committee on Merchant Marine and Fisheries
13 of the House of Representatives not later than 1 year after
14 the date of enactment of this Act. The marine fisheries man-
15 agement plan shall be deemed approved at the end of the
16 first period of 180 calendar days of continuous session of
17 Congress after such date of transmittal unless the House
18 of Representatives and the Senate pass resolution in sub-
19 stantially the same form stating that the marine fisheries
20 management plan is not favored. If the House and the
21 Senate pass resolutions of disapproval under this subsection,
22 the Council shall prepare, determine, and adopt a revised
23 plan. Each such revised plan shall be submitted to Congress
24 for review pursuant to this subsection. For purposes of this
25 section (1) continuity of session of Congress is broken only

1 by an adjournment sine die; and (2) the days on which
2 either House is not in session because of an adjournment of
3 more than 3 days to a day certain are excluded in the com-
4 putation of the 180-day period.

5 (e) MISCELLANEOUS.—(1) The marine fisheries man-
6 agement plan which is adopted by the Council and which
7 becomes effective after review by the Congress is not sub-
8 ject to review by any court. [Sec. 304 (b)]

9 (2) The Council shall have a seal which shall be
10 judicially recognized.

11 (3) The Administrator of General Services shall furnish
12 the Council with such offices, equipment, supplies, and serv-
13 ices as he is authorized to furnish to any other agency or
14 instrumentality of the United States. [Sec. 302 (e) (3)]

15 (4) A member of the Council who is not otherwise
16 an employee of the Federal Government may receive \$300
17 per diem when engaged in the actual performance of his
18 duties as a member of the Council plus reimbursement for
19 travel, subsistence, and other necessary expenses incurred
20 in the performance of such duties. Each member of the
21 Council shall be authorized such sums as are necessary to
22 enable him to appoint and compensate an adequate quali-
23 fied full-time professional staff responsible and subject to
24 his control, but not otherwise subject to control by the
25 Council. [Sec. 302 (d)]

1 (f) TERMINATION.—The Council shall cease to exist
 2 30 days after adoption by Congress of the marine fisheries
 3 plan pursuant to subsection (d) of this section.

4 (g) AUTHORIZATION.—There are hereby authorized to
 5 be appropriated for the purposes of this section a sum not to
 6 exceed \$1,000,000 for each of the fiscal years ending June
 7 30, 1975, and June 30, 1976. [Sec. 406]

8 INTERNATIONAL FISHERY AGREEMENTS

9 SEC. 7. (a) GENERAL [Sec. 202 (a) ; 202 (b) ;
 10 202 (c)].—The Secretary of State, upon the request
 11 of and in cooperation with the Secretary, shall initiate
 12 and conduct negotiations with any foreign nation which
 13 is engaged in, or whose citizens are engaged in, fishing
 14 in the contiguous fishery zone of the United States
 15 or for anadromous species. The Secretary of State, upon
 16 the request of and in cooperation with the Secretary, shall,
 17 in addition, initiate and conduct negotiations with any
 18 foreign nation in whose contiguous fishery zone or equivalent
 19 economic zone citizens of the United States are engaged in
 20 fishing or with respect to anadromous species as to which
 21 such nation asserts management responsibility and author-
 22 ity and for which citizens of the United States fish. The pur-
 23 pose of such negotiations shall be to enter into international
 24 fishery agreements on a bilateral or multilateral basis to
 25 effectuate the purposes, policy, and provisions of this Act.
 26 Such agreements may include, but need not be limited to,

1 agreements to provide for the management and conservation
2 of—

3 (1) coastal species, which are found in both the
4 contiguous fishery zone of the United States and the
5 equivalent such zone of a foreign nation adjacent
6 thereto;

7 (2) anadromous species, which are found during
8 the course of their migrations in ocean areas subject to
9 the fishery management responsibility and authority of
10 more than one nation;

11 (3) highly migratory species which are or may be
12 covered by international fishery agreements; and

13 (4) coastal species, which are found in areas sub-
14 ject to the fishery management responsibility and au-
15 thority of any foreign nation, through measures which
16 allow citizens of the United States to harvest an appro-
17 priate portion of such species in accordance with tradi-
18 tional United States fishing rights in such areas.

19 (b) REVIEW [Sec. 202 (a) ; 202 (b) ; 202 (c)].—

20 The Secretary of State shall review, in cooperation
21 with the Secretary, each treaty, convention, and other
22 international fishery agreements to which the United
23 States is party to determine whether the provisions of such
24 agreements are consistent with the purposes, policy, and
25 provisions of this Act. If any provision or terms of any
26 such agreement are not so consistent, the Secretary of State

1 shall initiate negotiations to amend such agreement: *Pro-*
 2 *vided*, That nothing in this Act shall be construed to abro-
 3 gate any duty or responsibility of the United States under
 4 any lawful treaty, convention, or other international agree-
 5 ment which is in effect on the date of enactment of this Act.

6 (c) BOUNDARIES AGREEMENT [Sec. 202 (d)].—The
 7 Secretary of State is authorized and directed to initiate and
 8 conduct negotiations with adjacent foreign nations to estab-
 9 lish the boundaries of the contiguous fishery zone of the
 10 United States in relation to any such nation.

11 (d) NONRECOGNITION [Sec. 202 (e)].—It is the sense
 12 of the Congress that the U.S. Government shall not recog-
 13 nize the limits of the contiguous fishery zone of any foreign
 14 nation beyond 12 nautical miles from the base line from
 15 which the territorial sea is measured, unless such nation rec-
 16 ognizes the traditional fishing rights of citizens of the United
 17 States, if any, within any claimed extension of such zone or
 18 with respect to anadromous species, or recognizes the man-
 19 agement of highly migratory species by the appropriate exist-
 20 ing bilateral or multilateral international fishery agreements
 21 irrespective of whether such nation is party thereto.

22 RELATIONSHIP TO STATE LAWS

23 SEC. 8. [Sec. 306].—Nothing in this Act shall be con-
 24 strued to extend the jurisdiction of any State over any
 25 natural resources beneath and in the waters beyond the

1 territorial sea of the United States, or to diminish the juris-
 2 diction of any State over any natural resource beneath and
 3 in the waters within the territorial sea of the United States.

4 PROHIBITED ACTS AND PENALTIES

5 SEC. 9. (a) PROHIBITED ACTS [Sec. 307].—It is un-
 6 lawful for any person to—

7 (1) violate any provision of this Act, or any regu-
 8 lation issued under this Act, regarding fishery within
 9 the contiguous fishery zone or with respect to anadro-
 10 mous species;

11 (2) violate any provision of any international fish-
 12 ery agreement to which the United States is party
 13 negotiated or reviewed pursuant to this Act, to the
 14 extent that such agreement applies to or covers fish-
 15 ing within the contiguous fishery zone or fishing for
 16 anadromous species as defined in section 4 of this Act;

17 (3) ship, transport, purchase, sell or offer for sale,
 18 import, export, possess, control, or maintain in his
 19 custody any fish taken in violation of paragraphs (1)
 20 or (2) of this subsection where such person knew or had
 21 reason to know that such taking was not lawful;

22 (4) violate any duly issued regulation under this
 23 Act with respect to making, keeping, submitting, or fur-
 24 nishing to the Secretary any records, reports, or other
 25 information;

1 (5) refuse to permit a duly authorized represent-
2 ative of the Secretary, or of the Secretary of the de-
3 partment in which the Coast Guard is operating, to
4 board a fishing vessel or fishing-support vessel subject to
5 his control where the purpose of such requested board-
6 ing is to inspect the catch, fishing gear, ship's log, or
7 other records or materials; or

8 (6) fail to cooperate with a duly authorized rep-
9 resentative of the Secretary, or of the Secretary of the
10 department in which the Coast Guard is operating, en-
11 gaged in a reasonable inspection pursuant to paragraph
12 (5) of this subsection, or to resist any lawful arrest.

13 (b) **CIVIL PENALTIES [Sec. 308].**—(1) Any person
14 who is found by the Secretary, after notice and an oppor-
15 tunity for a hearing in accordance with section 554 of title 5,
16 United States Code, to have committed an act prohibited by
17 subsection (a) of this section, shall be liable to the United
18 States for a civil forfeiture in accordance with subsection (d)
19 of this section and for a civil penalty. The amount of the civil
20 penalty shall not exceed \$25,000 for each day of each viola-
21 tion. The amount of such civil penalty shall be assessed by
22 the Secretary, or his delegate, by written notice. In determin-
23 ing the amount of such penalty, the Secretary shall take into
24 account the nature, circumstances, extent, and gravity of the
25 prohibited acts committed and, with respect to the violator,

1 the degree of culpability, and history of prior offenses, ability
2 to pay, and such other matters as justice may require.

3 (2) Any person who is found to have committed a pro-
4 hibited act and against whom a civil penalty is assessed under
5 paragraph (1) of this subsection may obtain review in the
6 appropriate court of appeals of the United States by filing a
7 notice of appeal in such court within 30 days from the date of
8 such order and by simultaneously sending a copy of such
9 notice by certified mail to the Secretary. The Secretary shall
10 promptly file in such court a certified copy of the record upon
11 which such violation was found or such penalty imposed, as
12 provided in section 2412 of title 28, United States Code. The
13 findings of the Secretary shall be set aside if found to be un-
14 supported by substantial evidence, as provided by section
15 706(2)(c) of title 5, United States Code.

16 (3) If any person fails to pay an assessment of a civil
17 penalty after it has become a final and unappealable order,
18 or after the appropriate court of appeals has entered final
19 judgment in favor of the Secretary, the Secretary shall refer
20 the matter to the Attorney General, who shall recover the
21 amount assessed in an appropriate district court of the
22 United States. In such action, the validity and appropriate-
23 ness of the final order imposing the civil penalty shall not be
24 subject to review.

25 (4) The Secretary may, in his discretion, compromise,

1 modify, or remit, with or without conditions, any civil pen-
 2 alty which is subject to imposition or which has been imposed
 3 under this subsection.

4 (c) **CRIMINAL PENALTIES [Sec. 309].**—Any person
 5 who willfully commits an act prohibited by subsection (a)
 6 of this section shall, upon conviction, be fined not more than
 7 \$50,000 or imprisoned for no more than 1 year or both.

8 (d) **CIVIL FORFEITURE [Sec. 310].**—(1) Any district
 9 court of the United States shall have jurisdiction, upon ap-
 10 plication by the Secretary or the Attorney General, to order
 11 forfeited to the United States any fish or fishing gear, used,
 12 intended for use, or acquired by activity in violation of any
 13 provision of subsection (a) of this section. In any such pro-
 14 ceeding, such court may at any time enter such restraining
 15 orders or prohibitions or take such other actions as are in the
 16 interest of justice, including the acceptance of satisfactory
 17 performance bonds in connection with any property subject
 18 to civil forfeiture.

19 (2) If a judgment is entered under this subsection for
 20 the United States, the Attorney General is authorized to
 21 seize all property or other interest declared forfeited upon
 22 such terms and conditions as are in the interest of justice.
 23 All provisions of law relating to the disposition of forfeited
 24 property, the proceeds from the sale of such property, the
 25 remission or mitigation of forfeitures for violation of the

1 customs laws, and the compromise of claims and the award
 2 of compensation to informants with respect to forfeitures
 3 shall apply to civil forfeitures incurred, or alleged to have
 4 been incurred, under this subsection, insofar as applicable and
 5 not inconsistent with the provisions of this section. Such
 6 duties as are imposed upon the collector of customs or any
 7 other person with respect to seizure, forfeiture, or disposi-
 8 tion of property under the customs laws shall be performed
 9 with respect to property used, intended for use, or acquired
 10 by activity in violation of any provision of subsection (a) of
 11 this section by such officers or other persons as may be
 12 designated for that purpose by the Secretary of the depart-
 13 ment in which the Coast Guard is operating.

14 ENFORCEMENT

15 **SEC. 10. (a) GENERAL [Sec. 311 (a)].**—The provi-
 16 sions of this Act shall be enforced, together with regulations
 17 issued under this Act, by the Secretary and the Secretary of
 18 the department in which the Coast Guard is operating. Such
 19 Secretaries may by agreement, on a reimbursable basis or
 20 otherwise, utilize the personnel, services, and facilities of any
 21 other Federal agency in the performance of such duties.

22 **(b) POWERS [Sec. 311 (b)].**—Any person duly au-
 23 thorized pursuant to subsection (a) of this section may—

24 (1) board and inspect any fishing vessel or fishing-
 25 support vessel which is within the contiguous fishery

1 zone of the United States, or which he has reason to
2 believe is fishing for anadromous species;

(2) arrest any person, with or without a warrant if he has reasonable cause to believe that such person has committed an act prohibited by section 9 (a) of this Act;

(3) execute any warrant or other process issued by an officer or court of competent jurisdiction; and

(4) seize all fish and fishing gear found onboard any fishing vessel or fishing-support vessel engaged in any act prohibited by section 9 (a) of this Act.

(c) COURTS [SEC. 311 (d)].—The district courts of the United States shall have exclusive jurisdiction over all cases or controversies arising under this Act. Such court may issue all warrants or other process to the extent necessary or appropriate. In the case of Guam, such actions may be brought and such process issued by the District Court of Guam; in the case of the Virgin Islands, by the District Court of the Virgin Islands; and in the case of American Samoa, by the District Court for the District of Hawaii. The aforesaid courts shall have jurisdiction over all actions brought under this Act without regard to the amount in controversy or the citizenship of the parties.

24 DURATION OF ACT

25 SEC. 11. (a) EFFECTIVE DATE [SEC. 104].—The
26 provisions of section 4 of this Act shall become effective 90

1 days after the date of enactment of this Act. All other pro-
2 visions of this Act shall become effective on the date of
3 enactment.

4 (b) TERMINATION DATE [SEC. 401].—The provi-
5 sions of this Act shall expire and cease to be of any legal
6 force and effect on such date as the Law of the Sea Treaty,
7 or other comprehensive treaty with respect to fishery juris-
8 diction, which the United States has signed or is party to,
9 shall come into force or is provisionally applied.

10 AUTHORIZATION FOR APPROPRIATIONS

11 SEC. 12. [SEC. 406].—Except with respect to section
12 6 and section 9 of this Act, there are authorized to be ap-
13 propriated for the purposes of this Act to the Secretary
14 such sums as are necessary, not to exceed \$4,000,000 for
15 each of the fiscal years ending June 30, 1975, June 30,
16 1976, and June 30, 1977, and to the Secretary of the de-
17 partment in which the Coast Guard is operating such sums
18 as are necessary, not to exceed \$13,000,000 for each of the
19 fiscal years ending June 30, 1975, June 30, 1976, and
20 June 30, 1977.

CHAPTER V

HOUSE DEBATES AND PASSAGE OF H.R. 200

94TH CONGRESS
1ST SESSION

H. R. 200

IN THE SENATE OF THE UNITED STATES

OCTOBER 20, 1975

Read twice and referred to the Committee on Commerce

AN ACT

To provide for the conservation and management of the fisheries, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled.*

3 **[SEC. 1] SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Marine Fisheries Conser-
5 vation Act of 1975".

6 **SEC. 2. CONGRESSIONAL FINDINGS, POLICY, AND PUR-**
7 **POSES.**

8 **[Sec. 2 (a)]** (a) FINDINGS.—The Congress finds and
9 declares the following:

10 (1) Coastal species of fish which inhabit the waters

1 adjacent to the United States, highly migratory species
2 of the high seas, species which dwell on or in the Con-
3 tinental Shelf, and anadromous species which spawn in
4 United States rivers and estuaries, constitute an irre-
5 placeable resource which contribute to the food supply
6 and economy of the Nation as well as to the health and
7 recreation of its people.

8 (2) Stocks of fish which United States fishermen
9 depend upon have been the target of concentrated foreign
10 fishing which has increased dramatically during the past
11 decade. Certain coastal and anadromous species are de-
12 pleted to the point where the survival of the fisheries is
13 threatened and others have been substantially reduced in
14 number, as the result of continued overfishing and failure
15 to initiate or to observe sound conservation practices.

16 (3) Commercial and recreational fishing constitutes
17 a major source of employment and contributes signifi-
18 cantly to the economy of the Nation. Many coastal areas
19 are dependent upon the fishing industry as the founda-
20 tion of the local economy. The depletion of fishery re-
21 sources at an ever-increasing rate over the past decade
22 threatens the social and economic fabric of those coastal
23 regions where fishing and related activities are the prin-
24 cipal source of employment.

25 (4) United States fishermen, confronted by massive

1 foreign fishing fleets in coastal waters of the United
2 States, have suffered extensive interference with their
3 fishing efforts and destruction of their gear under cir-
4 cumstances which render it virtually impossible to secure
5 compensation.

6 (5) International agreements have not been effective
7 in halting the depletion of valuable coastal and
8 anadromous species caused by such overfishing; and
9 even to the extent that international agreements might
10 ultimately prove to be effective, there is danger that ir-
11 reversible depletion of such species will take place before
12 such agreements can be negotiated, signed, ratified, and
13 implemented.

14 (6) Fishing for coastal and anadromous species is
15 carried out in part on the high seas off the coasts of the
16 United States by United States and foreign vessels where
17 no regime of law, except for specific international agree-
18 ments, applies to govern fishing or to require conserva-
19 tion practices.

20 (7) Fisheries resources are renewable and if placed
21 under sound management before depletion has caused
22 irreversible effects, can be restored to provide optimum
23 sustainable yield. It is therefore in the national interest
24 and in the interest of all nations and peoples engaged in
25 fishing on the high seas to provide effective management

1 programs that will both maintain the optimum sustain-
2 able yield of fisheries resources and support the com-
3 mercial and recreational fishing industries.

4 (8) Developing international law, as proposed in
5 the informal single negotiating text recently prepared at
6 the Third United Nations Conference on the Law of the
7 Sea, proposes primary coastal state management and
8 preference over coastal species in an economic zone ex-
9 tending to 200 miles beyond the baseline of the terri-
10 torial sea, and primary host state management and pref-
11 erence over anadromous species.

12 **【Sec. 2 (b) ; 2 (c) 】 (b) POLICY AND PURPOSES.—**It
13 is therefore declared to be the policy and purposes of the
14 Congress under this Act—

15 (1) to conserve and manage the fisheries resources
16 found off the coasts of the United States and the anadro-
17 mous fisheries resources of the United States in the high
18 seas by establishing an exclusive fisheries conservation
19 and management zone in the area extending 200 nautical
20 miles seaward of the United States within which the
21 United States will assume management responsibility
22 and authority over all fisheries resources, except highly
23 migratory species, and by declaring fisheries management
24 responsibility and authority on the high seas beyond such
25 zone with respect to anadromous species;

1 (2) to support and encourage international meas-
2 ures for the conservation and management of highly
3 migratory species on the basis of regulations consistent
4 with the terms of any applicable international fisheries
5 agreement;

6 (3) to promote the commercial and recreational
7 fishing industries of the United States in order to maxi-
8 mize under sound conservation and management princi-
9 ples the production of food from the sea and the recrea-
10 tional opportunities of the American people;

11 (4) to establish management programs which with
12 achieve and maintain an optimum sustainable yield from
13 fisheries resources under circumstances which will enable
14 the States, the fishing industry, consumer and environ-
15 mental organizations and other interested persons to
16 participate in or advise on the establishment of manage-
17 ment plans and regulations, and in the development of
18 such programs in regard to stocks of fish, to consider
19 the social and economic needs of the coastal States along
20 which such stocks abound;

21 (5) to permit foreign fishing within the fisheries
22 zone established by title I of this Act consistent with the
23 conservation requirements of the various stocks, if there
24 are excess stocks of fish not being utilized to the opti-
25 mum sustainable yield by United States commercial or

1 recreational fishermen, after there is taken into account
 2 the efforts of United States fishermen to develop new and
 3 expanded fisheries, and the fact that certain stocks of fish
 4 which United States fishermen have been heavily de-
 5 pendent upon are now seriously depleted largely as a
 6 result of foreign fishing;

7 (6) to support and encourage continued active
 8 United States efforts to obtain an internationally accept-
 9 able treaty at the Third United Nations Conference on
 10 the Law of the Sea, and particularly to seek effective
 11 conservation of living ocean resources;

12 (7) to maintain without change the existing juris-
 13 diction and rights of the United States in the Continental
 14 Shelf and the waters superjacent thereto for all purposes,
 15 other than the protection and conservation of fisheries
 16 resources as provided by this Act; and

17 (8) not to authorize any impediment to, or inter-
 18 ference with, lawful activities on the high seas, except
 19 with respect to the protection and conservation of fish-
 20 eries resources as provided by this Act.

21 **[SEC. 3] SEC. 3. DEFINITIONS.**

22 For purposes of this Act—

23 (1) The term “anadromous species” means those
 24 species of fish which spawn in fresh or estuarine waters
 25 of the United States and which migrate to ocean waters.

(2) The term "coastal species" means all species of fish other than any species referred to in paragraphs (1), (3), and (13) of this section.

(3) The term "Continental Shelf species" means any Continental Shelf fishery resource as defined in section 5(a) of the Act of May 20, 1964 (78 Stat. 196; 16 U.S.C. 1085 (a)).

(4) The term "depleted", when used with reference to any species of fish, means that a stock of the species has been so reduced, as a result of overfishing or any other cause induced by man, or as a result of any natural cause, that a substantial reduction in fishing effort must be immediately achieved in order that the stock can replenish itself and once again provide an optimum sustainable yield.

(5) The term "fisheries zone" means the fisheries conservation and management zone established by title I of this Act.

(6) The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than birds or marine mammals.

(7) The term "fishery" means the business, organized activity, or act of fishing for a particular stock or species of fish (or for two or more stocks or species which are caught simultaneously or otherwise caught together)

1 which by virtue of its geographical, scientific, technical,
 2 recreational, and economic characteristics is capable of
 3 being regulated as a unit.

4 (8) The term "fishing" means the catching, tak-
 5 ing, harvesting, or attempted catching, taking, or har-
 6 vesting, or any action which can reasonably be expected
 7 to result in the catching, taking, or harvesting, of fish
 8 for any purpose, and any activity at sea in support
 9 thereof.

10 (9) The term "fishing vessel" means any vessel,
 11 boat, ship, or other craft which is used for, equipped
 12 to be used for, or of a type which is normally used for—

13 (A) fishing; or

14 (B) aiding or assisting one or more vessels
 15 at sea in the performance of any activity relating
 16 to fishing, including, but not limited to, supply,
 17 storage, refrigeration, transportation, or processing.

18 (10) The term "high seas" means all waters be-
 19 yond the territorial sea of the United States.

20 (11) The term "international fisheries agreement"
 21 means any bilateral or multilateral treaty, convention,
 22 or agreement relating to fishing to which the United
 23 States is a party.

24 (12) The term "Marine Fisheries Commission"

1 includes the Atlantic States Marine Fisheries Commis-
2 sion, the Gulf States Marine Fisheries Commission,
3 and the Pacific Marine Fisheries Commission established
4 by interstate compact.

5 (13) The term "highly migratory species" means
6 those species of tuna which spawn and migrate during
7 their life cycles in waters of the high seas, in and outside
8 the fisheries zone.

9 (14) The term "optimum sustainable yield" means
10 a yield which provides the greatest benefit to the United
11 States as determined on the basis of the maximum
12 sustainable yield of a stock or stocks of fish as modified
13 by relevant ecological, economic, and social factors.

14 (15) The term "person" means any individual,
15 corporation, partnership, or association (whether or not
16 such individual is a citizen or national of the United
17 States, or such entity is organized or existing under the
18 laws of any State), and any government or entity
19 thereof.

20 (16) The term "Secretary" means the Secretary of
21 Commerce.

22 (17) The term "State" means any of the several
23 States, the District of Columbia, the Commonwealth

1 of Puerto Rico, American Samoa, the Virgin Islands,
2 Guam, and the possessions of the United States.

3 (18) The term "stock" means a species, subspecies,
4 geographical grouping, or other category of fish capable
5 of management as a unit.

6 (19) The term "United States" when used in a
7 geographical context, means all the States thereof.

8 **TITLE I—ESTABLISHMENT OF**
9 **UNITED STATES FISHERIES**
10 **CONSERVATION AND MANAGE-**
11 **MENT ZONE EXTENDING TO**
12 **THE 200-MILE LIMIT**

13 **SEC. 101. [SEC. 101] ESTABLISHMENT OF FISHERIES CON-**
14 **SERVATION AND MANAGEMENT ZONE.**

15 There is hereby established a fisheries conservation and
16 management zone (hereinafter referred to in this title as the
17 "zone") contiguous to the territorial sea of the United States.
18 The seaward boundary of the zone shall be a line drawn so
19 that each point on the line is 200 nautical miles from the
20 baseline from which the breadth of the territorial sea is
21 measured.

22 **SEC. 102. [SEC. 102] EXCLUSIVE RIGHTS OF UNITED STATES**
23 **WITHIN ZONE.**

24 The United States will exercise the same exclusive
25 rights in respect to fisheries in the zone as it has in its ter-

1 ritorial sea. Fishing by foreign states within the zone will
2 be permitted as may be recognized on or after July 1, 1976,
3 by the United States pursuant to the provisions of this Act.

4 **SEC. 103. [SEC. 101] ADJUSTMENT OF BOUNDARY.**

5 Whenever the President determines that a portion of the
6 zone conflicts with the territorial waters or fisheries zone of
7 another country, he may establish a seaward boundary for
8 such portion of the zone in substitution for the seaward
9 boundary described in section 101.

10 **SEC. 104. [SEC. 306] STATE JURISDICTION.**

11 Nothing in this Act shall be construed—

12 (1) as extending the jurisdiction of any State to any
13 natural resource beneath and in the waters within the
14 zone;

15 (2) as diminishing the jurisdiction of any State over
16 any natural resource beneath and in its internal waters;
17 or

18 (3) except as may be provided pursuant to section
19 309, as diminishing the jurisdiction of any State to any
20 natural resource beneath and in the waters of the terri-
21 torial sea of the United States.

22 **SEC. 105. [SEC. 402] REPEALER.**

23 The Act of October 14, 1966 (80 Stat. 908; 16 U.S.C.
24 1091-1094), is repealed.

1 SEC. 106. [SEC. 104] EFFECTIVE DATE.

2 This title shall take effect July 1, 1976.

3 TITLE II—INTERNATIONAL FISH- 4 ERIES AGREEMENTS

5 SEC. 201. FISHING BY FOREIGN VESSELS IN THE FISH-
6 ERIES ZONE AND SEAWARD OF THE ZONE
7 FOR MANAGED ANADROMOUS SPECIES.

8 (a) PERMITS REQUIRED OF FOREIGN VESSELS
9 [Sec. 204 (a)].—No fishing vessel, except a vessel docu-
10 mented under the laws of the United States or registered
11 under the laws of any State, shall engage in fishing within
12 the fishery zone, or fishing seaward of the fishery zone for
13 any anadromous species with respect to which a fishery
14 management plan implemented pursuant to title III of this
15 Act applies, unless such vessel has on board a valid permit
16 issued by the Secretary pursuant to this section.

17 (b) APPLICATION FOR PERMITS [Sec. 204 (b)].—Any
18 foreign nation seeking a permit referred to in subsection (a)
19 on behalf of one or more vessels registered under its flag may
20 file an application therefor with the Secretary of State. Any
21 application shall—

22 (1) state the name and official number of each
23 fishing vessel for which a permit is sought;

24 (2) set forth the tonnage, capacity, speed, process-

ing equipment, gear, and such other characteristics of each vessel as the Secretary may require;

(3) specify the species of fish for which the vessel or vessels will fish;

(4) specify the amount of fish or tonnage of catch contemplated;

(5) specify the ocean area in which, and the season or period during which, such fishing will be conducted; and

(6) set forth such other pertinent information as the Secretary may require.

(c) TRANSMISSION OF APPLICATION FOR ACTION

[Sec. 204 (b) (4)].—Upon receipt of any application referred to in subsection (b), the Secretary of State shall—

(1) promptly transmit such application, together with his comments and recommendations thereon, to the Secretary, and

(2) transmit a copy of the application to the Secretary of the department in which the Coast Guard is operating.

(d) TENTATIVE APPROVAL OF APPLICATION AND PREPARATION OF STATEMENT OF CONDITIONS AND RESTRICTIONS **[Sec. 204 (b) (6) : 204 (b) (7)].**—Upon receipt of any application, and after consultation with the

Secretary of the department in which the Coast Guard

1 is operating with respect to enforcement and after tak-
2 ing into consideration the views and recommendations
3 of the Secretary of State and the appropriate regional
4 marine fisheries council, the Secretary, if he determines
5 that the fishing activity proposed in the application is con-
6 sistent with the policy and purposes of this Act and with
7 the national fisheries management standards set forth in sec-
8 tion 302 (c), and after taking into account any traditional or
9 historical patterns of fishing by the applicant nation for the
10 species of fish covered in the application, shall tentatively
11 approve the application (subject to the provisions of sub-
12 section (e)) and shall prepare a statement of the conditions
13 and restrictions which will apply to the fishing in which the
14 foreign vessels propose to engage and to which the foreign
15 country must agree before any permit may be issued under
16 this section. Any statement of conditions and restrictions
17 shall include—

18 (1) any adjustment deemed necessary by the Sec-
19 retary in the number of fishing vessels for which permits
20 may be issued;

21 (2) if the vessels will engage in fishing for a
22 species for which a fishery management plan has been
23 implemented pursuant to title III of this Act (herein-
24 after referred to in this section as a “managed species”)
25 all requirements imposed by such plan;

(3) if the vessels will engage in fishing for other than a managed species, such conditions and restrictions with respect to tonnage, season, catch, gear, requirements, and statistical reporting as the Secretary deems appropriate for the species concerned;

(4) enforcement conditions, including but not limited to—

(A) procedures which will apply with respect to the boarding and inspection of the vessels, including the requirement that the permit issued to any vessel pursuant to this section must be prominently displayed in the wheelhouse of the vessel and must be promptly surrendered to any officer authorized to enforce the provisions of this Act at the time of his boarding.

(B) requirements for on-board observers and reimbursement to the United States for the costs of such observers, and

(C) prepayment of any license fees which may be levied in the case of a managed species;

(5) in any case in which subsection (c) applies, a further condition that any other condition and restriction imposed pursuant to this subsection shall be provisionally applicable until such time as the fishery management plan is implemented and may be unilaterally

1 amended by the Secretary after such implementation in
2 such manner as may be necessary to conform them to
3 the plan requirements; and

4 (6) any other conditions and restrictions which the
5 Secretary deems necessary or appropriate.

6 (e) SPECIAL CONSIDERATIONS IN CASE OF APPLICA-
7 TION TO FISH FOR SPECIES FOR WHICH FISHERY MAN-
8 AGEMENT PLAN IS BEING DEVELOPED [Secs. 201 (g) ;
9 204 (b) (7)].—The Secretary may tentatively approve an
10 application for fishing by foreign vessels for a species with
11 respect to which a fishery management plan is being devel-
12 oped by a regional marine fisheries council or by the Secre-
13 tary under title III of this Act only if the Secretary deter-
14 mines that the species is not depleted.

15 (f) CONGRESSIONAL ACTION ON APPLICATION [Sec.
16 203].—Any application tentatively approved by the Secre-
17 tary, together with the statement of conditions and restric-
18 tions prepared by the Secretary pursuant to subsection (d)—

19 (1) shall be deemed, for the purposes of section
20 206, to be an international fisheries agreement; and

21 (2) shall be transmitted by the Secretary to the
22 President for delivery to Congress pursuant to section
23

24 (g) ISSUANCE OF PERMITS [Sec. 204 (b) (11)].—
25 If neither the House of Representatives nor the Senate
26 disapproves an application pursuant to section 206, the

1 Secretary of State shall transmit to the foreign nation con-
 2 cerned a statement of conditions and restrictions prepared
 3 by the Secretary with respect to the application. Upon
 4 acceptance of the conditions and restrictions by the foreign
 5 nation, the Secretary shall issue to the Secretary of State a
 6 permit for each fishing vessel entitled thereto. The Secretary
 7 of State shall promptly transmit the permits to the foreign
 8 nation for distribution to the operators of such vessels.

9 (h) SUSPENSION OF REVOCATION OF PERMITS.—

10 (1) REPEATED VIOLATIONS [Sec. 204 (b)

11 (12)].—If the Secretary finds that any fishing vessel
 12 to which a permit is issued pursuant to this section has
 13 been repeatedly used in the commission of acts pro-
 14 hibited by section 310 (2) for which civil penalties are
 15 assessed pursuant to section 311, the Secretary may
 16 suspend the permit for such period of time as he deems
 17 appropriate, or may revoke the permit.

18 (2) FAILURE TO PAY ASSESSMENT [Sec. 204 (b)

19 (12)].—In any case in which any fishing vessel to
 20 which a permit is issued pursuant to this section—

21 (A) is used in the commission of any act pro-
 22 hibited by section 310 (2) and is not seized pursuant
 23 thereto; and

24 (B) a civil penalty is assessed pursuant to sec-
 25 tion 311 for such act,

1 the Secretary shall, if such assessment is not paid within
 2 a reasonable time after the date of the assessment, sus-
 3 pend the permit until such time as the assessment is
 4 paid.

5 (3) PENALTY FOR FISHING DURING PERIOD OF
 6 PERMIT REVOCATION OR SUSPENSION [Sec. 204 (b)
 7 (12)].—Any fishing by a foreign vessel in the fishery
 8 zone, or seaward of the fishery zone for any anadromous
 9 species with respect to which a fishery management
 10 plan is implemented pursuant to title III of this Act.
 11 during the period in which any permit issued pursuant
 12 to this section to such vessel is suspended or revoked
 13 pursuant to this subsection, shall be deemed to be a
 14 violation of the Act of May 20, 1964 (as amended by
 15 section 402 of this Act).

16 (i) ISSUANCE OF WARNINGS [Sec. 204 (b) (12)].—
 17 In any case in which any officer authorized to enforce the
 18 provisions of this Act finds that a fishing vessel to which a
 19 permit has been issued under subsection (g) has been op-
 20 erated in such a manner as to constitute a violation of a
 21 condition or restriction accepted by the foreign nation con-
 22 cerned but that such violation is, in his judgment, a minor
 23 infraction, the officer may, in lieu of citing the master of
 24 such vessel for violation of section 310 (2) , issue the master
 25 of the vessel a warning. Any warning issued pursuant to
 26 this subsection shall be noted in writing on the permit.

(j) APPLICATION AND PERMIT FORMS [Sec. 204 (b)

(2)].—The Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form for applications submitted pursuant to subsection (b) and for permits issued pursuant to subsection (g). The form prescribed for permits shall provide for the inclusion of such information as may be necessary to inform officers authorized to enforce the provisions of this Act of those conditions and restrictions accepted pursuant to subsection (g) which apply to the vessel.

(k) [Secs. 102 (2) ; 202 (a) (4) (B) ; 204 (a)] SPECIAL TREATMENT FOR FISHERY MANAGEMENT PLANS WHICH APPLY SEAWARD OF THE FISHERIES ZONE TO ANADROMOUS SPECIES.—

(1) PLANS DEEMED UNILATERAL CONSERVATION MEASURES.—Any fishery management plan prepared pursuant to section 304 or 305 (d) which in whole or part applies with respect to any anadromous species in any area of the high seas seaward of the fisheries zone shall be deemed to be a unilateral measure of conservation of the United States within the meaning of article 7 of the Convention on Fishing and Conservation of the Living Resources of the High Seas.

(2) SUSPENSION OF TAKING EFFECT OF PLAN.—

Notwithstanding any other provision of this Act, no fishery management plan referred to in paragraph (1), to

1 the extent that it applies seaward of the fisheries zone,
 2 shall enter into force and effect until the close of the
 3 6-month period immediately following the date of the
 4 promulgation of the regulations necessary to implement
 5 the plan. During such 6-month period, the Secretary of
 6 State shall—

7 (A) enter into negotiations pursuant to such
 8 article 7 with the other contracting parties to such
 9 Convention for the purpose of securing the consent
 10 of the contracting parties to such plan and the regu-
 11 lations implementing such plan; and

12 (B) enter into such other bilateral or multi-
 13 lateral negotiations as may be appropriate in order
 14 to obtain the consent of any foreign nation to such
 15 plan and the regulations implementing such plan.

16 (3) ENTERING INTO FORCE AND EFFECT OF
 17 PLAN.—After the close of the 6-month period referred
 18 to in paragraph (2), the fishery management plan con-
 19 cerned, to the extent that it applies seaward of the fish-
 20 eries zone, and the regulations implementing such plan
 21 shall have force and effect within the area seaward of the
 22 fisheries zone to which it applies.

23 (4) SUSPENSION OF ENFORCEMENT BY THE
 24 UNITED STATES OF PLAN SEAWARD OF THE FISHERIES
 25 ZONE.—If permits are issued pursuant to subsection (g)

to fishing vessels of any foreign nation which authorizes them to engage in fishing for any anadromous species to which a management plan referred to in paragraph (1) of this subsection applies, the United States shall not enforce the conditions and restrictions imposed with respect to such permits if the foreign nation gives written assurance to the Secretary of State that it will regulate such vessels in accordance with such conditions and restrictions. This paragraph shall only apply if, and during such time as, the Secretary, after consultation with the Secretary of State, finds that—

(A) the penalties imposed by the foreign nation on its vessels are equivalent to the penalties imposed pursuant to section 311 for violation of any such condition or restriction; and

(B) such foreign nation stringently assesses such penalties against its vessels or nationals which violate such conditions and restrictions.

(1) CONTINENTAL SHELF SPECIES [Sec. 307 (2)

(B)]—Nothing in titles I, II, or III of this Act shall be construed to extend to any vessel not documented under the laws of the United States, or not registered under the laws of any State, the right or privilege to engage in fishing for any Continental Shelf species.

1 SEC. 202. TREATMENT OF CERTAIN EXISTING INTERNA-
 2 TIONAL FISHERIES AGREEMENTS.

3 (a) APPLICATION OF ACT TO EXISTING AGREE-
 4 MENTS [Sec. 201 (b)].—No international fisheries agree-
 5 ment (other than an agreement which is a treaty within
 6 the meaning of section 2 of article II of the Constitution)
 7 which is in effect on July 1, 1976, and which pertains to
 8 fishing in the waters described in title I of this Act or which
 9 pertains to species or stocks of fish, or fisheries, with respect
 10 to which the United States may exercise management and
 11 conservation authority pursuant to this Act, shall be extended
 12 or renewed except pursuant to this Act.

13 (b) RENEGOTIATION OF TREATIES [Sec. 202 (b)].—
 14 The Secretary of State, in consultation with the Secretary and
 15 the Secretary of the department in which the Coast Guard is
 16 operating, shall initiate promptly after the date of the enact-
 17 ment of this Act, the renegotiation of all treaties within the
 18 meaning of section 2 of article II of the Constitution which
 19 pertain to fishing in the waters described in title I of this Act
 20 or which pertain to species, or stocks of fish, or fisheries, with
 21 respect to which the United States may exercise management
 22 and conservation authority pursuant to this Act, in order to
 23 conform such treaties to the provisions and requirements of
 24 this Act.

25 (c) REPORTS TO CONGRESS [Sec. 203].—The Secre-

1 tary of State shall submit to the Congress a written report on
 2 or before May 15, 1976, and annually thereafter, on the re-
 3 sults of the negotiations which he is required to initiate under
 4 subsection (b).

5 SEC. 203. NEGOTIATIONS TO SECURE CERTAIN UNITED
 6 STATES FOREIGN FISHING RIGHTS.

7 (a) COMMENCEMENT OF NEGOTIATIONS [Sec. 202

8 (a)].—The Secretary of State, upon the request of and in
 9 cooperation with the Secretary, shall initiate and conduct
 10 negotiations with any foreign nation in whose fishery con-
 11 servation zones, or its equivalent, vessels of the United States
 12 are engaged, or wish to be engaged, in fishing, or with re-
 13 spect to anadromous species or Continental Shelf fishery re-
 14 sources as to which such nation asserts management authority
 15 and for which vessels of the United States fish, or wish to fish.
 16 The purpose of such negotiations shall be to conclude inter-
 17 national fishery agreements which shall permit United States
 18 vessels equitable access to such fish, consistent with reason-
 19 able management and conservation practices, within such na-
 20 tion's fishery conservation zone or its equivalent.

21 (b) ACTION IF FOREIGN NATION REFUSES TO NEGOTIATE
 22 IF VIOLATES TREATY [Sec. 205 (a) ; 205 (b)].—If
 23 the Secretary of State determines that—

24 (A) any foreign nation is refusing to commence

1 negotiations with the United States in order to achieve
2 the purpose of subsection (a) ; or

3 (B) although an international fishery agreement
4 which achieves the purpose of subsection (a) is in force
5 and effect, the foreign nation is not complying with its
6 obligations under the agreement,
7 he may certify that determination to the Secretary of the
8 Treasury. Upon receipt of any such certification, the Secre-
9 tary of the Treasury shall immediately take such action as
10 may be necessary and appropriate to prohibit the importa-
11 tion into the customs territory of the United States of any
12 seafood product of that foreign nation.

13 (c) DURATION OF IMPORT PROHIBITION [Sec. 205
14 (c)].—Any import prohibition which is imposed pursuant to
15 subsection (b) shall remain in effect—

16 (1) if the prohibition was imposed by reason of
17 subsection (b) (A) , until such time as the Secretary of
18 State certifies to the Secretary of the Treasury that such
19 foreign nation has commenced negotiations in order to
20 achieve the purpose of subsection (a) ; or

21 (2) if the prohibition was imposed by reason of
22 subsection (b) (B) , until such time as the Secretary of
23 State certifies to the Secretary of the Treasury that the
24 foreign nation is complying with its obligations under
25 the international fishery agreement.

(d) **DEFINITION [Sec. 205 (d)]**.—For purposes of this section, the term “seafood product” means any fish which is the product of a foreign nation, and any article which is the product of such nation and which is composed in whole or part of any fish which is the product of such nation.

SEC. 204. [SEC. 202(a)(4)(B)] NEGOTIATIONS REGARDING HIGHLY MIGRATORY SPECIES.

The Secretary of State, upon the request of, and in cooperation with, the Secretary, shall initiate and conduct negotiations with any foreign nation participating in a fishery for any highly migratory species for the purpose of entering into international fisheries agreements that would establish an appropriate international fisheries organization having authority to manage and conserve such highly migratory species.

SEC. 205. [SEC. 401] MULTILATERAL CONVENTION.

If the United States ratifies a multilateral convention resulting from any United Nations Conference on the Law of the Sea which contains provisions with respect to the breadth of the territorial sea and the fisheries or economic zone, the Secretary, in consultation with the Secretary of State, may promulgate pursuant to section 307 such changes, if any, in the regulations issued pursuant to this Act as may be necessary or desirable to conform such regulations with

1 the provisions of such convention in anticipation of the date
 2 when such convention shall come into force and effect or
 3 otherwise be applicable to the United States.

4 SEC. 206. [SEC. 203] CONGRESSIONAL DISAPPROVAL OF
 5 CERTAIN INTERNATIONAL FISHERIES AGREE-
 6 MENTS.

7 (a) TAKING EFFECT OF INTERNATIONAL FISHERIES
 8 AGREEMENTS.—Any international fishery agreement (other
 9 than an agreement which is a treaty within the meaning of
 10 section 2 of article II of the Constitution) entered into after
 11 the date of the enactment of this Act, and any amendment
 12 entered into after such date to any international fishery agree-
 13 ment entered into before such date, shall enter into force and
 14 effect with respect to the United States if (and only if) —

15 (1) the President delivers a copy of the agreement
 16 to the House of Representatives and a copy to the Sen-
 17 ate; and

18 (2) before the close of the 60-day period which
 19 begins on the day on which copies of such agreement are
 20 delivered to the House of Representatives and to the
 21 Senate, neither the House of Representatives nor the
 22 Senate adopts, by an affirmative vote of the majority of
 23 those present and voting in that House, a resolution of
 24 disapproval.

25 (b) RESOLUTION OF DISAPPROVAL.—For purposes of
 26 this section, the term “resolution of disapproval” means only

1 a resolution of either House of Congress, the matter after the
 2 resolving clause of which is as follows: "That the
 3 does not favor the taking effect of the international fishery
 4 agreement transmitted to the Congress by the President on
 5 ", the first blank space therein being filled with
 6 the name of the resolving House and the second blank space
 7 therein being filled with the day and year.

8 (c) PROCEDURE IN EACH HOUSE.—

9 (1) A resolution of disapproval in the House of
 10 Representatives shall be referred to the Committee on
 11 Merchant Marine and Fisheries. A resolution of disap-
 12 proval in the Senate shall be referred to the Committee
 13 on Commerce.

14 (2) (A) If the committee to which a resolution of
 15 disapproval has been referred has not reported it at the
 16 end of 7 calendar days after its introduction, it is in
 17 order to move either to discharge the committee from
 18 further consideration of the resolution or to discharge the
 19 committee from further consideration of any other reso-
 20 lution of disapproval of the same international fishery
 21 agreement which has been referred to the committee.

22 (B) A motion to discharge may be made only by
 23 an individual favoring the resolution, is highly privileged
 24 (except that it may not be made after the committee
 25 has reported a resolution of disapproval), and debate

1 thereon shall be limited to not more than 1 hour, to
2 be divided equally between those favoring and those
3 opposing the resolution. An amendment to the motion
4 is not in order, and it is not in order to move to recon-
5 sider the vote by which the motion is agreed to or dis-
6 agreed to.

7 (C) If the motion to discharge is agreed to or
8 disagreed to, the motion may not be renewed, nor may
9 another motion to discharge the committee be made with
10 respect to any other resolution of disapproval of the
11 same international fishery agreement.

12 (3) (A) When the committee has reported, or has
13 been discharged from further consideration of, a resolu-
14 tion of disapproval, it is at any time thereafter in order
15 (even though a previous motion to the same effect has
16 been disagreed to) to move to proceed to the considera-
17 tion of the resolution. The motion is highly privileged
18 and is not debatable. An amendment to the motion is
19 not in order, and it is not in order to move to reconsider
20 the vote by which the motion is agreed to or disagreed
21 to.

22 (B) Debate on the resolution of disapproval shall
23 be limited to not more than 10 hours, which shall be di-
24 vided equally between those favoring and those oppos-
25 ing the resolution. A motion further to limit debate is not

1 debatable. An amendment to, or motion to recommit, the
2 resolution is not in order, and it is not in order to move
3 to reconsider the vote by which the resolution is agreed
4 to or disagreed to.

5 (4) (A) Motions to postpone, made with respect to
6 the discharge from committee or the consideration of
7 a resolution of disapproval, and motions to proceed to
8 the consideration of other business, shall be decided
9 without debate.

10 (B) Appeals from the decisions of the Chair re-
11 lating to the application of the rules of the House of
12 Representatives or the Senate, as the case may be, to
13 the procedure relating to any resolution of disapproval
14 shall be decided without debate.

15 (5) Whenever the President transmits copies of
16 any international fisheries agreement to the Congress, a
17 copy of such agreement shall be delivered to each House
18 of Congress on the same day and shall be delivered to the
19 Clerk of the House of Representatives if the House is not
20 in session and to the Secretary of the Senate if the Sen-
21 ate is not in session.

22 (6) This subsection is enacted by the Congress—

23 (A) as an exercise of the rulemaking power
24 of the House of Representatives and the Senate, re-
25 spectively, and as such it is deemed a part of the

1 rules of each House, respectively, but applicable
 2 only with respect to the procedure to be followed in
 3 that House in the case of resolutions of disapproval
 4 described in subsection (b); and they supersede
 5 other rules only to the extent that they are incon-
 6 sistent therewith; and

7 (B) with full recognition of the constitutional
 8 right of either House to change the rules (so far
 9 as relating to the procedures of that House) at any
 10 time, in the same manner, and to the same extent
 11 as in the case of any other rule of that House.

12 **TITLE III—MANAGEMENT OF THE** 13 **FISHERIES**

14 **SEC. 301. UNITED STATES JURISDICTION OVER CERTAIN** 15 **FISHERIES.**

16 (a) IN GENERAL [Sec. 102].—The fisheries manage-
 17 ment responsibility and authority of the United States extends
 18 to—

19 [Sec. 102 (1)] (1) any coastal species within the
 20 fisheries zone;

21 [Sec. 102 (2)] (2) any anadromous species wher-
 22 ever found throughout the range of such species in the
 23 high seas; and

24 [Sec. 102 (3)] (3) any Continental Shelf species.

25 [Sec. 103] (b) INTERNATIONAL REGULATION OF
 26 HIGHLY MIGRATORY SPECIES.—The fisheries management

responsibility and authority of the United States under this Act does not extend to highly migratory species, and the United States shall not recognize the right of any foreign country to extend its rights, claims, or jurisdiction to such species. Such species shall be managed pursuant to international fishery agreements established for such purpose.

**SEC. 302. FISHERIES MANAGEMENT RESPONSIBILITIES
OF THE SECRETARY.**

(a) **IN GENERAL [Sec. 304].**—Subject to the provisions of this Act, the Secretary shall manage all fisheries over which the United States has fishery management responsibility and authority under section 301 (a). The management of any such fishery shall result in the regulation of fishing in that fishery by any vessel documented under the laws of the United States or registered under the laws of any State and by any other vessel in such manner as is necessary and appropriate to carry out the policy and purposes of this Act.

(b) **MANAGEMENT PURSUANT TO MANAGEMENT PLAN [Sec. 304 (c)].**—Except as provided in section 305 (d) or 308, the Secretary may not manage any fishery under the authority of subsection (a) except in accordance with a management plan which is prepared pursuant to section 304 for such fishery.

(c) **NATIONAL FISHERIES MANAGEMENT STANDARDS [Sec. 301].**—The management of the fisheries pur-

1 suant to this Act shall be consistent with the following
2 national fisheries management standards:

3 (1) Management and conservation measures shall
4 be based upon the best scientific biological information
5 available.

6 (2) To the extent possible, an individual stock of
7 fish shall be managed throughout its range.

8 (3) Management and conservation measures shall
9 not discriminate between residents of different States.

10 (4) Management and conservation measures shall
11 be designed to achieve the optimum sustainable yield of
12 a stock of fish on a continuing basis.

13 (5) Management and conservation measures shall
14 promote efficiency in harvesting techniques.

15 (6) Management and conservation measures shall
16 be formulated to allow for unpredicted variations in
17 fishery resources and their environment and for possible
18 delay in the application of such measures.

19 (7) Management and conservation measures shall
20 not result in unreasonable administration or enforcement
21 costs.

22 (8) Management and conservation measures shall
23 be designed to prevent depletion of fisheries resources.

24 **SEC. 303. REGIONAL MARINE FISHERIES COUNCILS.**

25 (a) **ESTABLISHMENT** [Sec. 302 (a)].—There are

1 established seven regional marine fisheries councils to be
2 known respectively as the New England Marine Fisheries
3 Council, the Mid-Atlantic Marine Fisheries Council, the
4 Southern Atlantic Marine Fisheries Council, the Gulf Marine
5 Fisheries Council, the Pacific Marine Fisheries Council, the
6 Alaska Marine Fisheries Council, and the Western Pacific
7 Marine Fisheries Council (hereinafter referred to in this Act
8 as the "Council" or the "Councils"). The States represented
9 by each respective Council shall be as follows:

10 New England Marine Fisheries Council

11 Maine;

12 New Hampshire;

13 Massachusetts;

14 Rhode Island; and

15 Connecticut.

16 Mid-Atlantic Marine Fisheries Council

17 New York;

18 New Jersey;

19 Delaware;

20 Pennsylvania;

21 Maryland; and

22 Virginia.

23 Southern Atlantic Marine Fisheries Council

24 North Carolina;

25 South Carolina;

- 1 Georgia;
- 2 Florida;
- 3 The Commonwealth of Puerto Rico; and
- 4 The Virgin Islands.
- 5 Gulf Marine Fisheries Council
- 6 Texas;
- 7 Louisiana;
- 8 Mississippi;
- 9 Alabama;
- 10 Florida;
- 11 The Commonwealth of Puerto Rico; and
- 12 The Virgin Islands.
- 13 Pacific Marine Fisheries Council
- 14 California;
- 15 Oregon;
- 16 Washington; and
- 17 Idaho.
- 18 Alaska Marine Fisheries Council
- 19 Alaska;
- 20 Oregon; and
- 21 Washington.
- 22 Western Pacific Marine Fisheries Council
- 23 Hawaii;
- 24 American Samoa; and
- 25 Guam.

1 (b) MEMBERSHIP OF COUNCILS.—

2 (1) NUMBER AND APPOINTMENT [Sec. 302 (b) :
3 302 c)].—Each Council established by subsection (a)
4 shall consist of the following members:

5 (A) the Executive Director of the Marine
6 Fisheries Commission for the geographical area con-
7 cerned;

8 (B) the head of the agency responsible for
9 fisheries management and conservation of each
10 State represented on the Council, except that in the
11 case of the Alaska Marine Fisheries Council, the
12 head of such agency in Alaska and two additional
13 members appointed by, and serving at the pleasure
14 of, the Governor of Alaska;

15 (C) the Regional Director of the National
16 Marine Fisheries Service for the geographical area
17 concerned;

18 (D) the Regional Director of the United States
19 Fish and Wildlife Service for the geographical area
20 concerned;

21 (E) six members (other than officers or em-
22 ployees of the Federal Government or of any State
23 government) appointed by the Secretary from a list
24 prepared by the members specified in subpara-
25 graphs (A), (B), (C), and (D) of this paragraph

1 of not less than 20 individuals having knowledge and
 2 experience in commercial or recreational fishing,
 3 and such appointments shall fairly reflect the degree
 4 to which commercial and recreational fishermen
 5 participate in the fisheries in the geographical area
 6 concerned; and

7 (F) two members (other than officers or em-
 8 ployees of the Federal Government or of any State
 9 government or individuals referred to in subpara-
 10 graph (E)) who shall represent the public interest
 11 and who shall be appointed by the Secretary from a
 12 list prepared by the members specified in subpara-
 13 graphs (A) , (B) , (C) , and (D) of this paragraph
 14 of not less than six individuals.

15 A vacancy in any Council shall be filled in the manner
 16 in which the original appointment was made.

17 (2) CONTINUATION OF MEMBERSHIP [Sec. 302
 18 (b)].—If any member of any Council who was ap-
 19 pointed to such Council pursuant to paragraph (1) (A) ,
 20 (B) , (C) , or (D) leaves the office he is holding at the
 21 time of appointment, or if any member of any Council
 22 who was appointed from persons who are not officers or
 23 employees of any government becomes an officer or em-
 24 ployee of any government, he may continue as a member
 25 of such Council for not longer than the 90-day period

beginning on the date he leaves that office or becomes
such an officer or employee, as the case may be.

(3) TERMS [Sec. 302 (b)].—

(A) Except as provided in subparagraphs (B) and (C) of this paragraph, any member appointed pursuant to paragraph (1) (E) or (F) shall be appointed for a term of 3 years.

(B) Of the members first appointed pursuant to paragraph (1) (E) —

(i) two shall be appointed for a term of 1 year,

(ii) two shall be appointed for a term of 2 years, and

(iii) two shall be appointed for a term of 3 years,

as designated by the Secretary at the time of appointment.

(C) Of the members first appointed pursuant to paragraph (1) (F) —

(i) one shall be appointed for a term of 2 years; and

(ii) one shall be appointed for a term of 3 years,

as designated by the Secretary at the time of appointment.

1 (D) Any member appointed to fill a vacancy
 2 occurring prior to the expiration of the term for
 3 which his predecessor was appointed shall be ap-
 4 pointed only for the remainder of such term. A
 5 member may serve after the expiration of his term
 6 until his successor has taken office.

7 (E) Any individual appointed pursuant to
 8 paragraph (1) (E) or (F) is eligible for re-
 9 appointment.

10 (c) **PAY AND TRAVEL EXPENSES [Sec. 302 (d)].—**

11 (1) **PER DIEM RATE.**—Members of each Council,
 12 other than members who are full-time officers or em-
 13 ployees of the United States or any State, shall each be
 14 entitled to receive \$100 for each day (including travel-
 15 time) during which they are engaged in the actual per-
 16 formance of duties vested in the Council.

17 (2) **TRAVEL EXPENSES.**—While away from their
 18 homes or regular places of business in the performance
 19 of services for any Council, the members thereof shall
 20 be allowed travel expenses, including per diem in lieu
 21 of subsistence, in the same manner as persons employed
 22 intermittently in the Government service are allowed
 23 expenses under section 5703 (b) of title 5 of the United
 24 States Code.

25 (d) **TRANSACTION OF BUSINESS [Sec. 302 (e)].—**

(1) **QUORUM.**—A majority of the members of any Council shall constitute a quorum, but a lesser number may hold hearings.

(2) **CHAIRMEN.**—A Chairman for each Council shall be elected by the members of each Council from among members appointed pursuant to subsection (b)

(1) (B), (E), and (F).

(3) **MEETINGS.**—Each Council shall meet at the call of the Chairman or a majority of its members, but shall meet for at least 1 day during each calendar quarter.

(e) **STAFF AND ADMINISTRATION** [Sec. 302 (f)].—

(1) **COUNCIL STAFF.**—The Secretary shall make available to each Council such staff, information, and personnel services as it may reasonably require to carry out its functions.

(2) **DETAIL OF FEDERAL PERSONNEL.**—Upon request of any Council, and after consultation with the Secretary, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist it in carrying out its functions under this Act.

(3) **SUPPORT SERVICES.**—The Administrator of General Services, after consultation with the Secretary, shall provide to any Council on a reimbursable basis

1 such administrative support services as the Council may
2 request.

3 (4) STATEMENT OF ORGANIZATION.—Each Coun-
4 cil, after consultation with the Secretary, shall publish
5 and make available to the public a statement of the or-
6 ganization, procedure, and practices of the Council.

7 (f) ADVISORY PANELS [Sec. 302 (g)].—Each Council
8 may establish advisory panels to assist the Council in carry-
9 ing out its functions under this Act.

10 (g) FUNCTIONS [Sec. 302 (h)].—

11 (1) IN GENERAL.—Each Council shall—

12 (A) solicit, by means of public hearings to the
13 extent practicable, and evaluate on a continuing
14 basis comments and recommendations from all in-
15 terested persons in the geographical area concerned
16 with respect to the administration and implementa-
17 tion of the provisions of this Act;

18 (B) develop fishery management plans pur-
19 suant to section 304 for adoption by the Secretary,
20 and take such other actions with respect to fishery
21 management plans as may be required by such
22 section; and

23 (C) submit to the Secretary, within 30 days
24 after the close of each calendar quarter, a report set-

1 ting forth the results of the Council's activities under
2 this Act during such quarter.

3 (2) STATEMENT OF DISAGREEMENT.—If any mat-
4 ter submitted to the Secretary pursuant to subparagraph
5 (B) or (C) of paragraph (1) did not receive the
6 unanimous vote of the Council, the members of the
7 Council in disagreement may submit to the Secretary a
8 statement setting forth the reasons for their disagreement.

9 **SEC. 304. [SEC. 303] PREPARATION OF FISHERY MANAGE-**
10 **MENT PLANS BY COUNCILS.**

11 (a) PLANS PREPARED ON INITIATIVE OF COUNCIL OR
12 AT REQUEST OF SECRETARY.—

13 (1) ON INITIATIVE OF COUNCIL.—Any Council
14 may at any time prepare a fishery management plan
15 with respect to any species referred to in section 301 (a).

16 (2) AT REQUEST OF SECRETARY.—The Secretary
17 may request any Council to prepare a fishery manage-
18 ment plan with respect to any species referred to in
19 section 301 (a).

20 (3) APPLICATION OF PLANS.—Any fishery man-
21 agement plan prepared pursuant to paragraph (1) or
22 (2) shall be limited to species in the fisheries zone (and
23 seaward of the zone in the case of anadromous species
24 and Continental Shelf species) adjacent to the States

1 represented on the Council. In any case in which the
2 range of a species includes waters within the fisheries
3 zone which are adjacent to States represented on more
4 than one Council, the Secretary shall designate which
5 Council shall prepare the fishery management plan.

6 (b) SCOPE OF MANAGEMENT PLANS.—

7 (1) IN GENERAL.—Any fishery management plan
8 which is prepared by any Council shall—

9 (A) contain the conservation and other meas-
10 ures which the Council deems appropriate with
11 respect to the management of the species or the
12 fishery concerned; and

13 (B) specify such conditions and limitations
14 governing fishing by any vessel documented under
15 the laws of the United States or registered under
16 the laws of any State, or by any other vessel, which
17 the Council believes should be implemented to carry
18 out such measures within the territorial sea of the
19 United States, the fisheries zone, and, in the case of
20 any anadromous species or Continental Shelf spe-
21 cies, in waters seaward of such zone.

22 (2) INFORMATION WITH RESPECT TO RELEVANT
23 INTERNATIONAL OBLIGATIONS.—Any Council which is
24 preparing a fishery management plan on its own initia-
25 tive shall request the Secretary to provide, and the Sec-

retary when requesting any Council to prepare any such plan shall provide, to the Council such information as may be appropriate with respect to those international fisheries agreements and any other pertinent information relating to foreign fishing which apply, or may apply, within the fisheries zone and in waters seaward of such zone with respect to the fishery covered by the plan.

(3) SPECIFIC PLAN REQUIREMENTS [Sec. 303 (a) ; 303 (b)].—Any fishery management plan prepared by any Council may—

(A) designate zones where, and designate periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified vessels or with specified gear;

(B) establish a system under which access to the fishery shall be limited in order to achieve optimum sustainable yield on a basis which may recognize, among other considerations, present participation in the fishery or fisheries, historical fishing practices and dependence on the fishery, value of existing investments in vessels and gear, capability of existing vessels to engage in other fisheries, history of compliance with fisheries regulations imposed pursuant to this Act, and the cul-

1 tural and social framework in which the fishery is
2 conducted;

3 (C) establish limitations on the catch of fish
4 based on area, species, size, number, weight, sex,
5 incidental catch, total biomass, and other factors
6 necessary to carry out the policy and purposes of
7 this Act, including the size or number or nature of
8 the vessels or gear used in such catch;

9 (D) prohibit, limit, condition, or require the
10 use of specified types of fishing gear, vessels, or
11 equipment for such vessels, including devices which
12 may be required solely or partially to facilitate en-
13 forcement of the provisions of this Act;

14 (E) specify those licenses, permits, or fees
15 (the amount of which may vary between domestic
16 and foreign fishermen, between different categories
17 of domestic fishermen, or between different cate-
18 gories of foreign fishermen) which should be re-
19 quired as a condition to engaging in any fishery or
20 other activity regulated pursuant to this Act;

21 (F) require the submission to the Secretary of
22 pertinent statistics, including but not limited to in-
23 formation regarding type of fishing gear used, catch
24 by species in numbers of fish or weight thereof,

1 areas in which fishing was engaged in, time of
2 fishing, and number of hauls; and

3 (G) prescribe such other limitations or require-
4 ments as the Council deems necessary and appro-
5 priate to carry out the purposes of this Act.

6 (4) CONFIDENTIALITY OF STATISTICS [Sec. 303

7 (d)].—Statistics which are required to be submitted to
8 the Secretary by persons pursuant to paragraph (3) (F)
9 shall be confidential (except when required under court
10 order) and the Secretary shall by regulation prescribe
11 such procedures as may be necessary to preserve such
12 confidentiality. Such statistics may be released or made
13 public in any aggregate or summary form which does not
14 directly or indirectly disclose the identity or business
15 of such persons.

16 (5) PROPOSED REGULATIONS [Sec. 303 (c)].—

17 Any Council may prepare such proposed regulations as
18 it deems necessary and appropriate to carry out any
19 fishery management plan prepared by it and the Secre-
20 tary shall take such regulations into account when
21 developing proposed regulations to be promulgated
22 pursuant to section 307.

23 **SEC. 305. [SEC. 304] REVIEW, ADOPTION, OR OTHER ACTION**
24 **BY SECRETARY REGARDING FISHERY MAN-**
25 **AGEMENT PLANS.**

1 (a) ACTION BY SECRETARY AFTER RECEIPT OF
2 PLAN [Sec. 304 (a)].—Upon receipt of any fishery man-
3 agement plan prepared by any Council, the Secretary, within
4 60 days after the date on which the plan is received, shall—

5 (1) review the plan as provided for in subsection
6 (c) ;

7 (2) notify in writing the Council of his approval,
8 partial approval, or disapproval of the plan; and

9 (3) in the case of partial approval or disapproval
10 of the plan, include with such notification his objections
11 thereto and the reasons therefor, and request the Council
12 to amend the plan within 45 days.

13 (b) AMENDED PLAN [Sec. 304 (a)].—Within 30 days
14 after receiving an amended fishery management plan re-
15 quested by him pursuant to subsection (a) (3), the Secretary
16 shall notify in writing the Council of his approval or dis-
17 approval and, in the case of disapproval, his reasons therefor.

18 (c) REVIEW OF PLANS [Sec. 304 (b)].—The Secre-
19 tary shall review any fishery management plan submitted to
20 him by any Council. In carrying out such review, the Secre-
21 tary shall—

22 (1) consider existing and projected population
23 levels of the fish involved;

24 (2) evaluate the need for, and the extent to which,
25 the plan will contribute to the conservation and man-
26 agement of such fish;

1 necessary and appropriate to carry out the purposes of
2 this Act.

3 (3) consider existing fishery management programs,
4 statistics, and data relating to such fish;

5 (4) if the plan will apply to foreign fishing vessels
6 beyond the fisheries zone, consult with the Secretary of
7 State;

8 (5) examine and evaluate the management proce-
9 dures proposed in the plan in order to determine if the
10 regulation of the fishery concerned in the fisheries zone
11 will be consistent on an interstate basis and consistent
12 with the management procedures which are in effect in
13 the territorial sea of the United States;

14 (6) if the plan or proposed regulations involve
15 methods and procedures for enforcement at sea, consult
16 with the Secretary of the department in which the
17 Coast Guard is operating;

18 (7) consult with other Federal agencies, the com-
19 mercial and recreational fishing industries, and, to the
20 extent practicable, any other person having an interest
21 in the conservation of the fish involved and in the en-
22 hancement of the marine fisheries of the United States;

23 (8) analyze the proposed plan in order to determine
24 whether it is consistent with the national fisheries man-
25 agement standards set forth in section 302 (c) ; and

26 (9) consider such other relevant factors as he deems

1 (d) **PREPARATION OF PLANS BY SECRETARY** [Sec.
 2 304 (c)].—If any Council which is requested by the Sec-
 3 retary to prepare a fishery management plan fails to do so
 4 within such reasonable time as shall be specified by the
 5 Secretary, or if the Secretary disapproves an amended plan
 6 under subsection (b) and he determines that such a plan is
 7 needed, then the Secretary shall prepare a fishery manage-
 8 ment plan for the fishery concerned. The fishery management
 9 plan requirements set forth in section 304 (b) apply with
 10 respect to any plan prepared by the Secretary.

11 **SEC. 306. LICENSE FEES.**

12 (a) **DEFINITION** [Secs. 204 (b) (10) ; 304 (d)].—As
 13 used in this section, the term “license fee” means any fee
 14 which is imposed on any person under any fishery manage-
 15 ment plan implemented under this Act for the privilege of
 16 fishing.

17 (b) **COLLECTION BY SECRETARY** [Secs. 204 (b) (10) ;
 18 303 (b) ; 304 (d)].—All license fees imposed under any
 19 fishery management plan implemented under this Act shall
 20 be collected by the Secretary.

21 (c) **CREDIT OF LICENSE FEES TO SEPARATE TREAS-**
 22 **URY ACCOUNT.**—

23 (1) **ESTABLISHMENT OF ACCOUNTS** [Secs. 204
 24 (b) (10) ; 304 (d)].—There is established in the
 25 Treasury of the United States a separate account into

which all license fees collected by the Secretary shall be credited: *Provided*, That, notwithstanding any other provision of this Act, no funds shall be available from said account except as provided in appropriation Acts.

(2) FEES COLLECTED FROM FOREIGN FISHERMEN

【Sec. 204 (b) (10)】.—Ten percent of all of the license fees collected by the Secretary pursuant to any fisheries management plan from foreign fishermen shall be credited to the account established in paragraph (1) of this subsection and shall remain available without fiscal year limitation to carry out the purposes of subsection (d).

(3) OTHER FEES 【Sec. 304 (d)】.—All license

fees collected by the Secretary pursuant to any fishery management plan (other than the license fees referred to in paragraph (2) of this subsection) shall be credited to the account established in paragraph (1) of this subsection and shall remain available to carry out the purposes of subsection (e).

(d) REIMBURSEMENT OF CERTAIN FOREIGN FEES IMPOSED ON UNITED STATES FISHERMEN.—

(1) FEES ELIGIBLE FOR REIMBURSEMENT 【Sec. 304 (d)】.—The Secretary, under such regulations as he shall prescribe, shall reimburse any owner or operator of a United States fishing vessel for all or part of any license or permit fee which is imposed on such owner or

1 operator by any foreign nation for the privilege of fishing
2 in waters under the jurisdiction of that nation if—

3 (A) the United States recognizes the jurisdic-
4 tion of that nation over fisheries conservation and
5 management in such waters; and

6 (B) United States vessels have fished or carried
7 out fishing-support activities in such waters.

8 (2) LIMITATION ON REIMBURSEMENT [Sec. 304

9 (d)].—The Secretary shall reimburse any owner or
10 operator of a United States fishing vessel under para-
11 graph (1) of this subsection for the amount by which
12 the license or permit fee imposed by the foreign nation
13 exceeds the average license fee imposed under all fishery
14 management plans implemented under this Act. Such
15 average license fee shall be computed on the basis of all
16 such license fees in effect at the time such foreign fee
17 was imposed.

18 (3) REIMBURSEMENT FUNDING [Sec. 304 (d)].—

19 Reimbursement by the Secretary under paragraph (1)
20 of this subsection shall be made first out of the fees
21 credited pursuant to subsection (c) (2), and thereafter
22 out of funds which are hereby authorized to be appro-
23 priated to carry out the purposes of this subsection.

24 (e) FISHERY RESEARCH AND DEVELOPMENT [Sec.

25 304 (e)].—All license fees collected under any fishery man-
26 agement plan and credited pursuant to subsection (c) (3)

1 shall be used by the Secretary to carry out stock assessment
 2 and such other research and development which the Secre-
 3 tary deems appropriate with respect to the fishery resources
 4 within the geographical area of responsibility of the Council
 5 concerned.

6 **SEC. 307. [SEC. 305] IMPLEMENTATION OF FISHERY MAN-**
 7 **AGEMENT PLANS.**

8 (a) **IN GENERAL [Sec. 305 (a)].**—After the Secre-
 9 tary has approved any fishery management plan prepared
 10 by any Council or prepared by him, the Secretary shall, as
 11 soon as practicable thereafter publish in the Federal
 12 Register the plan and all regulations which he proposes to
 13 promulgate in order to implement the plan. Interested
 14 persons shall be afforded a period of not less than 45 days
 15 after such publication within which to submit written data,
 16 views, or comments on the proposed regulations. Except as
 17 provided in subsection (b), the Secretary may, after the
 18 expiration of such period and after consideration of all rele-
 19 vant matters presented, promulgate the regulations with
 20 such modifications, if any, as he deems appropriate.

21 (b) **OBJECTIONS TO PROPOSED REGULATIONS [Sec.**
 22 **305 (a) (2)].**—On or before the last day of a period fixed
 23 for the submission of written data, views, or comments
 24 under subsection (a), any citizen (which for purposes of
 25 this section means any individual, corporation, partnership,
 26 or other legal entity domiciled in any State) who, or any

1 State which, may be adversely affected by the plan or the
2 proposed regulations may file with the Secretary written
3 objections to specific provisions of the plan or the proposed
4 regulations, stating the grounds therefor, and may request
5 a public hearing on such objections. If the Secretary deter-
6 mines that the citizen filing objections may be adversely
7 affected and such citizen has requested a hearing, or if a
8 State requests a hearing, the Secretary shall not promul-
9 gate the regulations except as provided for by subsection
10 (c).

11 (c) HEARINGS AFTER OBJECTIONS [Sec. 305 (b)].—

12 As soon as practicable after the period of filing objections
13 has expired, if the Secretary determines that any citizen of
14 the United States filing objections may be adversely affected
15 and such citizen has requested a hearing, or if a State re-
16 quests a hearing, the Secretary shall publish in the Federal
17 Register a notice specifying the time and place at which a
18 public hearing shall be held, the provisions of the proposed
19 regulations to which such objections have been filed, and
20 such other provisions as he may designate for considera-
21 tion. The Secretary thereafter shall hold a public hearing
22 in accordance with section 553 of title 5, United States
23 Code, for the purpose of receiving information relevant to
24 the matters identified in the notice of hearing. If two or
25 more citizens of the United States or States request hearings
26 within the prescribed period and the Secretary deems such

1 hearing appropriate, the Secretary may consolidate such
2 hearings in the interest of time and economy. At the hear-
3 ing any interested citizen or State may be heard. As soon
4 as practicable after the completion of the hearing, the Sec-
5 retary shall act upon such objections, make his determina-
6 tions public (including a statement of his reasons therefor),
7 and promulgate the regulations with such modifications, if
8 any, as he deems appropriate.

9 (d) REVISION OF REGULATIONS [Sec. 305 (g)].—

10 The Secretary may from time to time revise any regulation
11 promulgated pursuant to this section in accordance with the
12 procedures prescribed in subsections (a) through (c).

13 (e) EMERGENCY REGULATIONS [Sec. 305 (e)].—

14 Notwithstanding subsections (a), (b), and (c), the Sec-
15 retary may waive, if the Council concerned consents, by
16 the affirmative vote of not less than two-thirds of the
17 membership of the Council, to such waiver, the require-
18 ments for notice and public hearing set forth in such sub-
19 sections with respect to any regulation implementing any
20 fishery management plan if he finds (and incorporates the
21 finding and a brief statement of the reasons therefor in the
22 publication of the regulation) that, due to an emergency
23 situation arising with respect to the fishery concerned, notice
24 and hearing thereon are impracticable, unnecessary, or con-
25 trary to the public interest. Written objections to such
26 procedure may be submitted within 30 days after the effec-

1 tive date of any such emergency regulation. If any such
 2 written objection is so received, the Secretary shall, not
 3 later than 40 days after such effective date, initiate the pro-
 4 cedures set forth in subsection (a), (b), and (c). Any
 5 emergency regulation promulgated pursuant to this subsec-
 6 tion shall remain in effect for one year after the date on which
 7 the Secretary publishes notice of proposed rulemaking
 8 required by subsection (a), unless the Secretary terminates
 9 such regulation by notice in the Federal Register at any
 10 earlier date.

11 **SEC. 308. [SEC. 305(e)] TEMPORARY EMERGENCY FISHERY**
 12 **MANAGEMENT PLANS PREPARED AND IMPLE-**
 13 **MENTED BY THE SECRETARY WITH RESPECT**
 14 **TO CERTAIN FISHERIES.**

15 (a) **IN GENERAL.**—Before the close of the 90-day pe-
 16 riod beginning on the date of the enactment of this Act, and
 17 without regard to sections 304 through 307 except as pro-
 18 vided in subsection (d) of this section, the Secretary, on his
 19 own initiative or upon the request of any State, shall with
 20 respect to any coastal species or Continental Shelf species
 21 which he believes to be, as of the date of the enactment of
 22 this Act, (1) depleted, (2) in imminent danger of becom-
 23 ing depleted, or (3) under intensive use but unregulated
 24 because of the absence of management authority—

25 (A) prepare, after consultation with appropriate
 26 States and fishing industry representatives, a manage-

1 ment plan, which shall apply within those waters which
2 comprise the contiguous fisheries zone established by the
3 first section of the Act of October 14, 1966, for the
4 fishery; and

5 (B) promulgate such regulations as may be neces-
6 sary and appropriate to implement such plan.

7 (b) INTERIM REPORT.—Before the close of the 45-day
8 period beginning on the date of the enactment of this
9 Act, the Secretary shall submit to the Congress a report
10 which sets forth those fisheries which he will take action on
11 pursuant to subsection (a).

12 (c) PLAN REQUIREMENTS.—The Secretary, in pre-
13 paring any plan required by subsection (a), shall include
14 such requirements set forth in section 304 (b) (3) as he
15 deems to be necessary and appropriate with respect to the
16 fishery concerned, but may not, pursuant to such plan, im-
17 pose limited entry or license fees on vessels documented
18 under the laws of the United States or otherwise registered
19 under the laws of any State in any area of the waters com-
20 prising such contiguous fisheries zone.

21 (d) TREATMENT OF REGULATIONS.—Any regulation
22 which is promulgated by the Secretary to implement any
23 fishery management plan prepared pursuant to this section
24 shall be treated as an emergency regulation promulgated
25 under section 307 (e) ; except that any such regulation shall

1 remain in effect for 180 days after the date on which the
 2 regulation is promulgated unless the Secretary terminates
 3 such regulation at an earlier date.

4 **SEC. 309 [SEC. 306]. STATE JURISDICTION.**

5 (a) IN GENERAL.—Except as provided in subsection
 6 (b), nothing in this Act shall be construed as extending or
 7 diminishing the jurisdiction of any State seaward of the
 8 coastline of the United States.

9 (b) ASSERTION OF FEDERAL JURISDICTION IN CER-
 10 TAIN INSTANCES.—

11 (1) FINDINGS.—The Congress finds that anadro-
 12 mous species, certain coastal species, and certain Con-
 13 tinental Shelf species move, during their life cycles,
 14 within waters over which more than one State has juris-
 15 diction, and move from such waters to waters that are
 16 not within the jurisdiction of any State. The Congress
 17 further finds that, although the purpose of this Act is not
 18 to affect State jurisdiction over fish principally within
 19 waters under State jurisdiction, there may be instances
 20 where Federal regulation within such waters of any
 21 anadromous species, coastal species, or Continental Shelf
 22 species may be necessary in order to insure the effective-
 23 ness of a management plan implemented under this Act
 24 for a fishery.

25 (2) FINDINGS AND ACTION BY SECRETARY [Sec. 306

1 (b) (1)].—If the Secretary finds, after notice and oppor-
 2 tunity for agency hearing, that—

3 (A) any fishery management plan implemented
 4 pursuant to this Act applies to any anadromous spe-
 5 cies, coastal species, or any Continental Shelf species
 6 which are to any extent, or are at any time, under
 7 the jurisdiction of any State; and

8 (B) such State has taken any action, or omit-
 9 ted to take any action, the result of which will sub-
 10 stantially and adversely affect the carrying out of
 11 the management plan which applies to a fishery,
 12 the Secretary shall promptly declare that such fishery
 13 within waters, other than internal waters, under juris-
 14 diction of the State shall be subject to regulation by him
 15 pursuant to the management plan, and the Secretary,
 16 as soon as practicable thereafter, shall assume responsi-
 17 bility for such regulation.

18 (c) RESUMPTION OF STATE REGULATION [Sec. 306

19 (b) (2)].—If the Secretary, pursuant to subsection (b),
 20 assumes responsibility for the regulation of any fishery with-
 21 in waters under the jurisdiction of any State, the State may
 22 at any time thereafter apply to the Secretary for reinstate-
 23 ment of State regulation of such fishery. If the Secretary
 24 finds, after notice and opportunity for agency hearing, that
 25 the reasons for which regulation of the fishery by him was

1 assumed no longer prevail, the Secretary shall promptly
2 declare such fishery to be subject to regulation by the State
3 within that State's waters pursuant to the fishery manage-
4 ment plan.

5 **SEC. 310 [SEC. 307]. PROHIBITED ACTS.**

6 It is unlawful for any person—

7 (1) to violate any provision of this Act or any
8 regulation promulgated under this Act to carry out any
9 fishery management plan implemented pursuant to this
10 Act;

11 (2) if fishing pursuant to a permit issued under sec-
12 tion 201 (g), to violate any condition or restriction ac-
13 cepted by the foreign nation concerned pursuant to that
14 section in regard to the permit;

15 (3) to refuse to permit any authorized representa-
16 tive of the Secretary, or of the Secretary of the Depart-
17 ment in which the Coast Guard is operating, to board
18 any fishing vessel under the control of such person if the
19 purpose of the requested boarding is to carry out any
20 inspection relating to the enforcement of this Act, any
21 regulation referred to in paragraph (1), or any condi-
22 tion or restriction referred to in paragraph (2) unless
23 such refusal is pursuant to a right protected by interna-
24 tional law;

25 (4) to forcibly assault, resist, oppose, impede, in-
26 timidate, or interfere with any authorized representative

of the Secretary, or of the Secretary of the Department in which the Coast Guard is operating, who is engaged in any reasonable inspection of a kind referred to in paragraph (3) ; or

(5) to ship, transport, purchase, offer for sale, import, export, or have in custody, possession, or control any fish taken in violation of this Act, any regulation referred to in paragraph (1), or any condition or restriction referred to in paragraph (2) .

SEC. 311 [SEC. 308]. CIVIL PENALTIES.

(a) **ASSESSMENT OF PENALTY [Sec. 308 (a)].**—Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by paragraph (1), (2), or (5) of section 310 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

1 (b) REVIEW OF CIVIL PENALTY [Sec. 308 (b)].—
2 Any person against whom a civil penalty is assessed under
3 subsection (a) may obtain review thereof in the appropriate
4 court of the United States by filing a notice of appeal in such
5 court within 30 days from the date of such order and by
6 simultaneously sending a copy of such notice by certified mail
7 to the Secretary. The Secretary shall promptly file in such
8 court a certified copy of the record upon which such viola-
9 tion was found or such penalty imposed, as provided in sec-
10 tion 2112 of title 28, United States Code. The findings of the
11 Secretary shall be set aside if found to be unsupported by
12 substantial evidence as provided by section 706 (2) of title
13 5, United States Code.

14 (c) ACTION UPON FAILURE TO PAY ASSESSMENT
15 [Sec. 308 (c)].—If any person fails to pay an assessment
16 of a civil penalty after it has become a final and unappeal-
17 able order, or after the appropriate court has entered final
18 judgment in favor of the Secretary, the Secretary shall refer
19 the matter to the Attorney General, who shall recover the
20 amount assessed in any appropriate district court of the
21 United States. In such action, the validity and appropriat-
22 ness of the final order imposing the civil penalty shall not
23 be subject to review.

24 (d) COMPROMISE OR OTHER ACTION BY SECRETARY
25 [Sec. 308 (d)].—The Secretary may compromise, modify,
26 or remit, with or without conditions, and civil penalty which

1 is subject to imposition or which has been imposed under
2 this section.

3 **SEC. 312. [SEC. 309]. CRIMINAL PENALTIES.**

4 Any person who commits any act prohibited by para-
5 graph (3) or (4) of section 310 shall be fined not more than
6 \$50,000; except that if such person uses a deadly or danger-
7 ous weapon in the commission of any such act, such person
8 shall be fined not more than \$100,000, or imprisoned for not
9 more than 10 years, or both.

10 **SEC. 313 [SEC. 310]. FORFEITURE.**

11 (a) APPLICATION FOR FORFEITURE.—Any district
12 court of the United States shall have jurisdiction, upon ap-
13 plication by the Secretary or the Attorney General, to
14 order forfeited to the United States any fishing vessel, catch,
15 cargo, fishing gear, or the monetary value thereof as deter-
16 mined by the court, used, intended for use, or acquired in
17 the Commission by any person of any act prohibited by
18 section 310. In any such proceeding, such court may at any
19 time enter such restraining orders or prohibitions or take
20 such other actions as are in the interest of justice, including
21 the acceptance of satisfactory performance bonds in con-
22 nection with any property subject to forfeiture.

23 (b) SEIZURE.—If a judgment is entered under this sec-
24 tion for the United States, the Attorney General is author-
25 ized to seize all property or other interest declared forfeited
26 upon such terms and conditions as are in the interest of

1 justice. All provisions of law with respect to violations of
 2 the customs laws relating to the disposition of forfeited prop-
 3 erty, the proceeds from the sale of such property, the remis-
 4 sion or mitigation of forfeitures and the compromise of
 5 claims and the award of compensation to informants with
 6 respect to forfeitures, shall apply to forfeitures incurred,
 7 or alleged to have been incurred, under this section, insofar
 8 as applicable and not inconsistent with the provisions of this
 9 section. Such duties as are imposed upon the collector of
 10 customs or any other person with respect to seizure, for-
 11 feiture, or disposition of property under the customs laws
 12 shall be performed with respect to property used, intended
 13 for use, or acquired in the commission of any act prohibited
 14 by section 310 by such officers or other persons as may be
 15 designated for that purpose by the Secretary.

16 **SEC. 314. [SEC. 311] ENFORCEMENT.**

17 (a) **IN GENERAL [Sec. 311 (a)].**—The provisions of
 18 this Act and any regulation promulgated under this Act to
 19 carry out any fishery management plan implemented under
 20 this Act shall be enforced by the Secretary, and the Secre-
 21 tary of the Department in which the Coast Guard is operat-
 22 ing. In carrying out such enforcement, the Secretary and the
 23 Secretary of the Department in which the Coast Guard is
 24 operating may utilize by agreement, with or without reim-
 25 bursement, the personnel, services, and facilities—

1 (1) of any other Federal agency; or

2 (2) of any State agency, but only for purposes of
3 enforcement with respect to (A) any vessel in the
4 fisheries conservation and management zone, or (B) any
5 vessel documented under the laws of the United States
6 or otherwise registered under the laws of any State,
7 wherever any such vessel may be found.

8 (b) **AUTHORITY** [Sec. 311 (b)].—Any individual au-
9 thorized pursuant to subsection (a) to enforce the provisions
10 of this Act, any regulation issued thereunder, and any con-
11 dition or restriction applicable to any permit issued under sec-
12 tion 201 may—

13 (1) with or without a warrant or other process,
14 board and inspect any fishing vessel documented under
15 the laws of the United States or otherwise registered
16 under the laws of any State or any other fishing vessel
17 subject to the jurisdiction of the United States, and its
18 catch and gear, upon the waters of the fisheries conserva-
19 tion and management zone or upon all high seas seaward
20 of such zone;

21 (2) with or without a warrant or other process,
22 arrest any person committing in his presence or view
23 a violation of section 310 (3) or (4);

24 (3) execute any warrant or other process issued by
25 any officer or court of competent jurisdiction;

26 (4) seize any fishing vessel and fishing gear used

1 in, and any fishing vessel on which occurs, the violation
2 of any provision of this Act, any regulation promulgated
3 to carry out any management plan implemented pur-
4 suant to this Act, or any condition or restriction appli-
5 cable to any permit issued under section 201; and

6 (5) seize any fish, wherever found, taken in viola-
7 tion of any provision of this Act or any regulation or
8 condition or restriction referred to in paragraph (4)
9 of this subsection.

10 Any fishing vessel, fishing gear, or fish seized pursuant to
11 paragraph (4) or (5) of this subsection may be disposed
12 of pursuant to an order of a court of competent jurisdiction,
13 or, if perishable, in such manner as may be prescribed by
14 the Secretary by regulation.

15 (c) **STATE OFFICERS [Sec. 311 (b)]**.—Any officer of
16 any State, if designated pursuant to subsection (a) to func-
17 tion as a Federal law enforcement agent shall not be consid-
18 ered to be a Federal employee of the United States for the
19 purposes of any laws administered by the Civil Service
20 Commission.

21 (d) **JURISDICTION OF COURTS [Sec. 311 (d)]**.—The
22 Federal district courts shall have exclusive jurisdiction over
23 all cases arising under this Act, any regulation promulgated
24 under the Act to carry out any fishery management plan
25 implemented under this Act and any permit issued pursuant
26 to section 201, and may issue all warrants or other processes

1 as may be necessary. In the case of Guam, actions arising
2 under such regulations may be brought in the district court of
3 Guam, and in the case of the Virgin Islands such actions may
4 be brought in the district court of the Virgin Islands. In the
5 case of American Samoa, such actions may be brought in the
6 District Court of the United States for the District of Hawaii
7 and such court shall have jurisdiction of such actions.

8 (e) PROCEDURE.—Notwithstanding the provisions of
9 section 2464 of title 28, United States Code, when a warrant
10 of arrest or other process in rem is issued in any cause under
11 this section, the marshal or other officer shall stay the execu-
12 tion of such process, or discharge any fish seized if the
13 process has been levied, on receiving from the respondent
14 or claimant of the fish a bond or other surety satisfactory to
15 the court, conditioned to deliver the fish seized, if condemned,
16 without impairment in value or, in the discretion of the
17 court, to pay its equivalent value in money or otherwise
18 to answer the decree of the court in such case. Such bond
19 or other surety shall be returned to the court and judgment
20 thereon against both the principal and sureties may be re-
21 covered in the event of any breach of the conditions thereof
22 as determined by the court. In the discretion of the accused,
23 and subject to the direction of the court, the fish may be
24 sold for not less than its reasonable market value and the
25 proceeds of such sale placed in the registry of the court pend-
26 ing judgment in the case.

1 **TITLE IV—AMENDMENTS TO OTHER**
 2 **LAWS RELATING TO THE FISH-**
 3 **ERIES AND MISCELLANEOUS**
 4 **PROVISIONS**

5 **SEC. 401. [SEC. 403] FISHERMAN'S PROTECTIVE ACT AMEND-**
 6 **MENTS.**

7 (a) **SEIZURE PROVISION [Sec. 403 (a)]**.—Section 2
 8 of the Fisherman's Protective Act of 1967 (68 Stat. 833;
 9 22 U.S.C. 1972) is amended to read as follows:

10 “SEC. 2. In any case where—

11 “(1) any vessel of the United States is seized by a
 12 foreign country on the basis of rights or claims in terri-
 13 torial waters or the high seas which are not recognized
 14 by the United States; or

15 “(2) any vessel of the United States is seized by
 16 a foreign country while such vessel is engaged in fishing
 17 in any area of the high seas (and the rights or claims
 18 to fisheries conservation and management jurisdiction
 19 in such area by such country are recognized by the
 20 United States) for a specific stock of fish (including,
 21 but not limited to, tuna and any other highly migratory
 22 species of fish), and vessels of the United States have
 23 previously fished in such area for such stock,
 24 and there is no dispute of material facts with respect to the

1 location or activity of such vessel at the time of such seizure,
 2 the Secretary of State shall as soon as practicable take action
 3 to attend to the welfare of such vessel and its crew while it
 4 is held by such country to secure the release of such vessel
 5 and crew, and to immediately ascertain the amount of any
 6 fine, license, fee, registration fee, or any other direct charge
 7 which may be reimbursable under section 3 (a) of this Act.”.

8 (b) REIMBURSEMENT PROVISION.—

9 (1) **【Sec. 403 (a) (2) (D) (iii)】** Section 3 (a) of
 10 such Act of 1967 (22 U.S.C. 1973 (a)) is amended by
 11 inserting immediately before the last sentence thereof the
 12 following new sentence: “For purposes of this section,
 13 the term ‘other direct charge’ means any levy, however
 14 characterized or computed (including, but limited to,
 15 computation based on the value of a vessel or the value of
 16 fish or other property on board a vessel), which is im-
 17 posed in addition to any fine, license fee, or registration
 18 fee.”.

19 (2) **【Sec. 403 (b)】** The amendment made by
 20 paragraph (1) of this subsection shall apply with respect
 21 to seizures of vessels of the United States occurring on or
 22 after December 31, 1974.

23 **SEC. 402. [SEC. 402(b)] AMENDMENTS TO THE ACT OF MAY 20,**
 24 **1964.**

25 (a) **AMENDMENTS.**—The Act of May 20, 1964 (78
 26 Stat. 194–196; 16 U.S.C. 1081–1086) is amended—

1 (1) by amending the first section to read as
2 follows:

3 “That (a) it is unlawful for any vessel, except a vessel of
4 the United States, or for any master or other person in
5 charge of such a vessel, to engage in fishing—

6 “(1) within the territorial waters of the United
7 States, its territories and possessions, and the Common-
8 wealth of Puerto Rico;

9 “(2) within the fisheries conservation and manage-
10 ment zone established by title I of the Marine Fisheries
11 Conservation Act of 1975 unless such fishing is au-
12 thorized under a permit issued pursuant to section 201
13 of such Act;

14 “(3) for any anadromous species beyond such
15 fisheries conservation and management zone for which
16 a fishery management plan has been implemented under
17 title III of such Act of 1975 unless such fishing is
18 authorized under a permit issued pursuant to section
19 201 of such Act of 1975; and

20 “(4) for any Continental Shelf fishery resource.

21 “(b) Notwithstanding any other provision of law, the
22 Secretary of Commerce, with the concurrence of the Secre-
23 tary of State, may permit a vessel, other than a vessel of the
24 United States, owned or operated by an international organi-

1 zation of which the United States is a member, to engage in
 2 fishery research within the territorial waters of the United
 3 States or within the fisheries conservation and management
 4 zone established by title I of the Marine Fisheries Conserva-
 5 tion Act of 1975 or for Continental Shelf fisheries resources
 6 and to land its catch in a port of the United States in accord-
 7 ance with such conditions as the Secretary may prescribe
 8 whenever they determine such action is in the national inter-
 9 est.”; and

10 (2) by amending section 5(c) by striking out
 11 “‘fisheries’” and inserting in lieu thereof “‘fishing’”.

12 (b) EFFECTIVE DATE.—The amendment made by sub-
 13 section (a) shall take effect July 1, 1976.

14 **SEC. 403. [SEC. 405] ATLANTIC TUNAS CONVENTION ACT**
 15 **AMENDMENT.**

16 (a) AMENDMENT [Sec. 405 (a)].—Section 2 (4) of
 17 the Atlantic Tunas Convention Act of 1975 (Public Law
 18 94-70) is amended by striking out “the entire zone estab-
 19 lished by the United States under the Act of October 14,
 20 1966 (80 Stat. 908; 16 U.S.C. 1091-1094),” and inserting
 21 in lieu thereof “the fisheries conservation and management
 22 zone established by title I of the Marine Fisheries Conser-
 23 vation Act of 1975,”.

24 (b) EFFECTIVE DATE [Sec. 405 (b)].—The amend-
 25 ment made by subsection (a) shall take effect July 1, 1976.

1 SEC. 404. [SEC. 404] MARINE MAMMAL PROTECTION ACT
2 AMENDMENT.

3 (a) AMENDMENT [Sec. 404 (a)].—Section 3 (15)
4 (B) of the Marine Mammal Protection Act of 1972 (86
5 Stat. 1029; 16 U.S.C. 1362 (15) (B)) is amended by strik-
6 ing out “the fisheries zone established pursuant to the Act of
7 October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091–1094).”
8 and inserting in lieu thereof “the fisheries conservation and
9 management zone established by title I of the Marine Fish-
10 eries Conservation Act of 1975.”

11 (b) EFFECTIVE DATE [Sec. 404 (b)].—The amend-
12 ment made by subsection (a) shall take effect July 1, 1976.

13 SEC. 405. [SEC. 406] AUTHORIZATION OF APPROPRIATIONS.

14 There are authorized to be appropriated such sums
15 as may be necessary to carry out the purposes of this Act
16 (other than section 306 (d) (3)).

17 SEC. 406. [SECTION NOT INCORPORATED INTO PUBLIC LAW
18 94-265] SEVERABILITY.

19 The provisions of this Act shall be severable and if any
20 part of the Act is declared unconstitutional or the applica-
21 bility thereof is held invalid, the constitutionality of the
22 remainder and the applicability thereof shall not be af-
23 fected thereby.

Passed the House of Representatives October 9, 1975.

Attest:

W. PAT JENNINGS,

Clerk.

OCTOBER 9, 1975

Mrs. SULLIVAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 200) to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Missouri.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 200, with Mr. Smith of Iowa in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentlewoman from Missouri (Mrs. Sullivan) will be recognized for 1 hour, and the gentleman from New Jersey (Mr. Forsythe) will be recognized for 1 hour.

The Chair recognizes the gentlewoman from Missouri (Mrs. Sullivan).

Mrs. SULLIVAN. Mr. Chairman, I yield myself such time as I may consume.

(Mrs. Sullivan asked and was given permission to revise and extend her remarks.)

Mrs. SULLIVAN. Mr. Chairman, before I begin the debate I would like to say that we are attempting to cut this debate down as closely as we can so that we can finish at a reasonable time, as we promised the Members yesterday. We will yield time to the opposition as well as to the proponents of the bill.

Mr. Chairman, I urge the support of this Chamber for H.R. 200, which has as its main thrust the preservation of our U.S. fishery resources. [Sec. 2] It is imperative that we take action at this time on this legislation if we are to preserve our fisheries stocks which have been depleted to the point of extinction by the depredations of the huge Communist bloc fishing fleets. [Sec. 2]

H.R. 200, the Marine Fisheries Conservation Act of 1975, received the overwhelming endorsement of my committee when it was reported

to the House by a vote of 36 to 3, with one voting present, and I would emphasize that the bill deals only with our fishery resources and not other subjects such as deep seabed mining, which are before the Law of the Sea Conference.

H.R. 200 has my wholehearted support since, as I just mentioned, legislation such as this is desperately needed in order to preserve and manage our continued fishery resources.

Despite the urgings of many long-time advocates of such unilateral action, my committee moved slowly and deliberately in its effort to devise legislation which would regulate as well as assist our own fishermen, conserve our dwindling fishery resources, and share surplus stocks with foreign fishermen without imposing an undue burden on any segment of American fishermen, such as those who fish off the coasts of other countries, and without increasing or creating international tensions. [Sec. 2]

Several years ago, the task seemed all but impossible and an international agreement through the mechanism of the Law of the Sea Conference seemed to be not only the most likely but probably the only workable solution. Unfortunately, the international community, through the Law of the Sea, was unable to reach a consensus or even make any substantial progress, although it has met time and again in various places for extended periods of time.

Mr. Chairman, the Law of the Sea Conference involves some 140 nations and some 4,000 delegates, dealing with such complex and nationalistic matters as fishery resources, deep seabed minerals, rights of passage, and rights of pollution and technology in sovereign or territorial seas. This must of necessity involve an extended educational process before agreement can be reached. The Law of the Sea advocates, in their zeal, have failed to recognize this and thought that they could just come to agreement.

This could not be so, and it has not been so. Perhaps it may be so within the next 4 to 5 years. Meanwhile, our important fishery resources are facing extinction by overfishing from foreign fishing fleets. Thus, we cannot wait but must act unilaterally now. [Secs. 2; 101] Legislation is necessary now to save our fishing industry and our resources, and it is also required to provide the impetus without which there is serious doubt that the efforts to obtain an international Law of the Sea Agreement through the auspices of the United Nations will ever reach fruition. [Secs. 2(c) (5) ; 401]

Mr. Chairman, the members of my committee and I have long been concerned about the serious plight of American fishermen and the progressive deterioration of our fishery resources. It has become increasingly clear that the regulatory power of our Government over these fisheries is insufficient. Experience has shown that unregulated, or only partially regulated fishing, almost invariably leads to decline of the resource and corresponding economic hardship for the fishermen, and that this has been one important factor in the decimation of American fishery resources. [Sec. 2]

As early as February of 1973, the administration proposed fisheries management legislation which was introduced by the then chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment Congressman John D. Dingell. That bill, H.R. 4760, was

the subject of subcommittee hearings in May and July of 1973. Strong objections were expressed at those hearings by our coastal fishermen because the bill regulated only American fishermen and failed to deal with the main problem—overfishing by foreign fishermen of the fisheries resources off our shores. [Sec. 2]

In June 1974, Mr. Dingell, Mr. Biaggi, and I introduced an expanded version of this legislation, H.R. 15619. That bill required the Secretary of Commerce to promulgate regulations governing fishing in our 12-mile fishery zone and on the high seas, for the purpose of obtaining the optimum overall biological, economic and social benefits, and such regulations applicable to areas beyond the fisheries zone would be deemed unilateral measures of conservation by the United States within the meaning of article 7 of the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas and, as such, would apply to foreign vessels of countries which are signatory to applicable international fishing agreements as well as U.S. fishermen.

After a 6-month period, under the terms of H.R. 15619, applicability of these regulations would have been extended to the vessels of all foreign nations whether or not they were party to the convention or other international agreements. I believed that this offered a workable method of preserving our fisheries resources through a regulatory system applicable to foreign as well as U.S. fishermen, without unilaterally extending our fishing zone.

At the same time, because of the growing pressure from members of my committee and other sponsors—some 170—of bills to extend our exclusive fishing zone, and because of the increasing likelihood that the Senate was moving toward early favorable action on such legislation to create a 200-mile fishing zone, we agreed to hold a series of field hearings throughout the country to find out what the thinking was in those areas where the problems were closest to home.

Between May and October of 1974, the subcommittee held 10 hearings from Maine to California and, with the single exception of San Pedro, Calif., home of America's tuna fleet which fishes off the coast of other countries, mainly Peru and Ecuador, the sentiment was unanimously in favor of a 200-mile fishing zone. In the waning days of the 93d Congress, the Senate passed a bill for this purpose by a vote of 68 to 27, after favorable reports by both the Commerce and Armed Services Committees, and despite an unfavorable vote by the Senate Foreign Relations Committee—by a very small margin.

In March of this year, I as full committee chairman, and the subcommittee chairman, Congressman Robert L. Leggett, decided that subcommittee hearings should begin in Washington on all pending legislation dealing with this subject, including my bill which was a preservation and management bill, H.R. 1070, and a composite bill combining my approach with the extension of our fishing zone to 200 miles, which was introduced by Congressman Dingell so that all possible alternatives could be considered.

Mr. Chairman, I was unable to attend the field hearings last year but, along with Mr. Leggett and many other Members of his subcommittee, I spent most of a 3-week period this spring listening to witnesses on every side of this issue and gaining insight into the

intensity of the problems we face in this area and the absolute necessity that something be done now if we are to preserve our fishery resources. Because this was the feeling of the overwhelming majority of the subcommittee, the staff and other interested persons were put to the task of preparing one bill containing the best of all the alternatives offered—that bill is H.R. 200 as reported by my committee.

Mr. Chairman, during this period, the Law of the Sea Conference met twice—in Caracas, Venezuela, during the summer of 1974 and in Geneva, Switzerland, early this year. Members of my committee and staff were in attendance at both of these meetings. On the basis of their first-hand impressions and despite the assurances of the Law of the Sea Task Force following each of those meetings, there is simply not one shred of measurable evidence that any real progress has been made toward accomplishment of an international agreement on the Law of the Sea at any time in the foreseeable future.

The adoption of a single negotiating text at the Geneva meeting represents no real progress; in fact, since it creates a lightning rod for all those who wish no agreement or who oppose anything that this country advocates, this text may well hinder accomplishment of an agreement. I believe we must face up to the fact that, short of a miracle and without some outside irresistible force—such as passage of H.R. 200 may provide—there is virtually no chance that agreement will be reached at the New York Law of the Sea meeting this coming spring.

During my years in Congress, I know of no other single piece of legislation which has received more careful or thorough consideration than this bill. Every effort has been made to protect those segments of our fishing industry which fish off the coasts of other shores and to prevent the upheaval of our international relations in any way. **[Sec. 2]** What we are proposing in H.R. 200 is the equivalent of the U.S. position at the Law of the Sea Conference. Under the bill as reported by my committee, the 200-mile fishing zone would not take effect until July 1, 1976 **[Sec. 104]**, a date which follows the New York meeting of the Law of the Sea Conference. **[Sec. 2(c)(5)]** Current treaties are not superseded by this legislation and virtually 99 percent of all changes suggested by the Law of the Sea Task Force in their testimony were adopted by my committee. **[Secs. 201(a); 201(b); 201(c); 202(a); 202(b); 202(c)]**

Some question has been raised about the enforcement difficulties which might arise under this bill. Mr. Chairman, enforcement is not an insuperable obstacle. **[Sec. 311]**

Enforcement does not have to be 100 percent to be effective. Also, the implicated Government agencies pretty well know where the fishing grounds are and where the fish will be, so it will not require a continuous picket line of enforcement vessels and aircraft around the Nation 200 miles at sea. **[Sec. 311]**

A question has been raised as to the United States acting unilaterally under H.R. 200, Mr. Chairman, unilateral U.S. action at sea is not a novel concept. **[Sec. 101]** There is ample precedent. The United States has previously unilaterally extended its fishing zone out to 200 miles. Also, under the Federal Water Pollution Control Act of 1972, the United States extended its pollution control authority in the so-called contiguous zone, beyond the 3-mile territorial sea. Under the

Deep Water Port Act, passed last year, the Congress provided that both the Federal and State Governments can unilaterally assert their jurisdiction far beyond the 3-mile limit.

Mr. Chairman, the Marine Fisheries Conservation Act of 1975 is an idea whose time has come. We can move favorably and quickly on this legislation and begin to rejuvenate our dying fishing industry and our rapidly disappearing fishery resources [Sec. 2]—or we can sit idly by and let them vanish while the Law of the Sea Conference talks on. We must act now to protect our precious but dwindling fishery resources. [Sec. 2] Thus, I urge all my colleagues to vote in favor of H.R. 200.

Mr. FORSYTHE. Mr. Chairman, I deeply regret that the administration has been unable to support the enactment of H.R. 200. The Departments of State and Defense have made their views known to Republican Members of the House at the conference meeting this morning, and all Members of the House have been furnished extensive material setting forth the administration's views. I must respectfully disassociate myself from the position taken by the administration. I strongly support the enactment of H.R. 200, and I urge all of my colleagues in the House to support this vitally needed legislation.

The opposition that has been expressed by representatives of the administration centers around the impact which they perceive it will have on the Law of the Sea Conference, which resumes in March of 1976 in New York. In addition to the adverse impact they envision, the representatives of the administration also oppose this legislation as essentially unnecessary. They assert that coastal State jurisdiction over fishery resources is virtually assured in whatever treaty emerges from the Law of the Sea Conference, and that we, therefore, need not adopt this legislation. I will discuss this latter issue of the need for and timing of this legislation first, and then turn to the question of adverse impact upon the Conference.

It is quite true that the so-called single negotiating text, which was promulgated on the final day of the last session of the Conference in Geneva, contains most of the basic points the United States has been striving for with respect to fisheries. I say "most" because one important segment of our fishing industry is not protected by the single negotiating text; namely, our tuna industry. In that regard, by the way, former Ambassador Thomas Clingan, our chief fisheries negotiator at the last session of the Law of the Sea Conference, stated before our committee upon his return, and I quote:

The tuna article is disappointing. The fisheries management and allocation aspect of this article are not good.

With all fairness to Ambassador Clingan, he did, however, indicate that what was in the text was better than nothing. The Law of the Sea negotiations, therefore, have not reached agreement in support of all the basic elements of the U.S. negotiating position, and there is indeed no guarantee that this will ever occur.

The articles set forth in the so-called single negotiating text are not locked in concrete. As Ambassador Clingan stated to our committee, and I quote again:

The Single Negotiating Text must be viewed as a procedural device providing the basis for further negotiations, and it is not a negotiated text or an agreed compromise. It does not affect any nation's national position.

Nothing in the so-called single negotiating text can be taken as a final action. Provisions that we like in the text may be taken out as easily as provisions may be added. All issues before the Law of the Sea Conference remain open. It is erroneous, therefore, to assert, as representatives of the State Department have done, that we have substantially achieved our objectives in the fisheries area. We cannot make any hard and fast predictions as to what the final treaty will contain with respect to fisheries. It may contain all of the provisions we seek—it may contain none.

Even if the single negotiating text could be taken as the final word, except in the area of tuna, and even if we can assume that the tuna issue will be resolved to our satisfaction, there remains the question of timing. When will we achieve success in the Law of the Sea Conference? When will a treaty emerge? And, finally, when will that treaty enter into force? It is interesting that contrary to the statements we have heard in the last few days from administration witnesses, Mr. Moore, Chairman of the National Security Council Inter-Agency Task Force on the Law of the Sea, who appeared before the Republican Conference this morning in opposition to H.R. 200, also appeared before the Merchant Marine and Fisheries Committee following his return from Geneva in May and sang an entirely different song. He stated at that time, and I quote :

In previous testimony before this committee, I have indicated that there were reasonable prospects of adhering to the General Assembly schedule and completing the record of the Conference during 1975. Indeed, this timing has been a cornerstone of our interim policy. I regret to report to you that I was wrong, and that this schedule was overly optimistic. It is now clear that the negotiations cannot be completed before mid-1976 at the earliest, and at this time it is not clear whether or not a treaty can be completed during 1976.

Mr. Moore continued by stating that in light of this failure to maintain the timetable proposed by the General Assembly, the administration was going to conduct a thorough reevaluation of its interim policy in order to insure a necessary balance between our broad national interests as he conceived them, and the more immediate need to protect our coastal fisheries and to secure access to the raw materials of the seabed. He stated that members of the administration would be consulting closely with Congress as this evaluation progressed, and that they would be reporting back to the Congress soon after the August recess, and I quote :

Not only our recommendations concerning interim legislation but also a full and frank evaluation of the factors that we have weighed.

If this reevaluation ever did take place, I have not been advised about it. Certainly no effort was made to consult with me, or to my knowledge to consult with any members of the Merchant Marine Committee. To the contrary, during the markup in the subcommittee and the full committee on H.R. 200, representatives of the various executive agencies were under a gag rule and could not discuss even the most mechanical details of the bill with us. There has been no consultation—there has been no reevaluation—there has been no effort during these months to attempt to formulate a policy to protect our vital fisheries interests pending the outcome of the Law of the Sea Conference at some future date. All we are told now is that through intensive bilateral negotiations, the State Department will make an effort

to further reduce foreign fishing pressures off our shores. Of course, we have had bilateral negotiations for the past decade, and it is under the umbrella of these bilateral negotiations that our fisheries have been decimated.

The candid testimony of Mr. Moore before our committee this year certainly convinces me that no one can predict when the Law of the Sea Conference will complete its work. Perhaps it is reasonable to assume that this will occur in 1977. I certainly hope so. If it does, then we may be able to anticipate the ratification of a treaty by 1980 on a realistic basis. But the fisheries cannot withstand the pressure for 4 more years. The Soviet Union has already destroyed our haddock and yellowtail flounder stocks, the most valuable fisheries off the coast of the United States. The Japanese are taking huge quantities of pollock off of Alaska and are resisting our efforts to achieve even minimal inspection and enforcement provisions.

The much-touted success of the U.S. negotiating team at the recent ICNAF meeting at Montreal does not impress me. The fact of the matter is that while the Soviet Union agreed to a substantial reduction in its tonnage, the Soviet Union is now beginning to feel the impact of its own ill-conceived policies of the past decade. There simply are not enough fish left in the ICNAF area to support that kind of fishing the Russians were conducting in years past. Now that they have decimated these resources, it is a relatively easy matter for them to agree to reduce their fishing pressure in the future. It would be uneconomical for them to continue to send the same number of boats to Georges Bank next year that they sent last year in the face of a greatly diminished resource. And, of course, part of the Russians' willingness to cooperate at the Montreal ICNAF meeting was undoubtedly the result of their anticipation of our 200-mile zone. Frankly, they are hoping that the United States will be so impressed with their sudden enlightenment that we will give them favorable consideration when it comes time to license foreign vessels under H.R. 200. **[Sec. 201(e)]**

I respectfully urge my colleagues not to be taken in by the propaganda with which we have been deluged by the State Department in the past week. Listen rather to the words they spoke to us during a calmer period when they were honestly evaluating our chances for success at the Law of the Sea Conference. Again I quote from John Moore, Chairman of the Law of the Sea Task Force:

Our disappointment at the pace of the negotiations is genuine and requires a careful rethinking of our interim policy.

Turning now to the impact of our action today on the Law of the Sea Conference, I must say at the outset I am appalled at the lack of intellectual content in the arguments expressed by the State Department. The infantile simplicity with which they purport to view the Conference I am sure does not reflect their true sentiments. But it does tend to reflect their view of the intellectual capacity of the Congress. Apparently, those who have been lobbying us for the past week do not believe that we are capable of analyzing the complex issues and political pressures that exist in the Conference, and can only grasp the most simple-minded notions of what the real world is all about. It is urged upon us that enactment of H.R. 200 would disrupt the Conference to such an extent that the chances for a successful Law of the Sea treaty

would, at best, be substantially diminished, and at worst the Conference would never recover from the shock. In effect, the rest of the world would simply pick up their marbles and go home. This extremely simplistic view of the complex negotiations taking place in the Law of the Sea Conference is not only an insult to our intelligence but is not supported by the facts.

Coastal State jurisdiction over fishery resources, the subject of H.R. 200, is but one of the many complex issues being debated in the Law of the Sea Conference. While a great deal of work has been done with respect to coastal State control over fishery resources, as well as the mineral deposits found within 200 miles of shore within the concept of an economic zone, other very basic issues are only at the threshold stage of serious debate. These include the nature and powers of the international regime which will regulate seabed mining beyond the economic zone, the right of transit through and over international straits, scientific research, and marine pollution.

Undoubtedly, the most controversial of these issues is the question of the regime for the seabeds. It was, after all, the prospect of wealth derived from mining the seabed for the benefit of developing nations that triggered this third Law of the Sea Conference. The resolution which spawned this effort in the late 1960's spoke in terms of mineral resources of the oceans beyond national jurisdiction as the common heritage of mankind. While full potential of the seabeds as a source of mineral wealth will not be realized for decades, the rules and regulations governing access to mineral deposits on the seabed is the crux of the Law of the Sea Conference. It is an issue which the developing nations of the world, which dominate the Law of the Sea Conference in terms of numerical strength, have committed themselves to settling on terms which will insure that they and not the industrialized nations of the world will be the chief beneficiaries.

In order to accept the State Department's theory that enactment of H.R. 200 will disrupt the Law of the Sea Conference, we must assume that the developing nations of the world are prepared to abandon their quest for an international treaty establishing the regime for the deep seabeds. There is simply no evidence whatsoever to support that assumption. All the evidence is to the contrary. The general consensus for a 200-mile economic zone virtually guarantees to the developing nations full control of their coastal resources. Without a treaty, however, the developing nations have no hope of deriving any ultimate benefit from the rapidly increasing technology of seabed mining. It is the developed nations of the world, and principally the United States, which would benefit most if indeed the rest of the world picked up their marbles and went home without a new Law of the Sea treaty. American corporations and those of Japan and a few other countries under national legislation are prepared to begin commercial seabed mining almost immediately. Lacking the hundreds of millions of dollars needed to begin seabed mining, the developing nations simply have no chance whatsoever to share in this wealth without a treaty that in some fashion earmarks a portion of seabed revenues for their benefit. The United States has committed itself to such a treaty, provided it contains reasonable terms for commercial participation in seabed mining.

In essence, what I am saying is that the developing nations have everything to gain and very little to lose by persevering in the Law of the Sea Conference. In terms of access to the mineral resources of the seabed, it is, I am afraid, the United States that ultimately stands to lose in this negotiating process. It is absurd to suggest that the majority of nations will walk out of the Law of the Sea Conference because the United States has chosen to protect its coastal and other fishery resources.

What are the prospects of securing adoption of a treaty covering a seabed regime which the United States can ratify? I suggest that the prospect is not good. While I have no doubt that, given their overwhelming numerical superiority, the developing nations could ram a treaty through the Conference next March, the drafting of a treaty which the United States and the other developed nations of the world can sign and ratify is a different matter altogether.

I already have pointed out the fact that the seabed and the nature of the international regime to control ocean mining is a critical issue in these deliberations. It is also an issue upon which the negotiating positions of the United States and the developing nations are diametrically opposed. Our position essentially is that the seabed regime should rely basically on private enterprise to explore and exploit the mineral resources of the oceans. A portion of the wealth derived from this effort will be dedicated to international development activities for the benefit of the third world. The developing nations, on the other hand, not for the same reasons in all cases, seek the establishment of an international regime under which an international authority which they control will actively engage in seabed mining. Presumably, the United States and other developed nations would furnish the money. Private enterprise might or might not be permitted to engage in mining, but in any event only as a licensee of this international authority. The likelihood that these opposing philosophies can be reconciled in one more session of the Law of the Sea Conference next March is small indeed, assuming that they can be reconciled at all.

Our principal negotiator at the Law of the Sea Conference with respect to the major question of the regime for the deep seabed is Mr. Lee S. Ratiner of the Department of the Interior. In appearing before the Merchant Marine and Fisheries Committee following the last session of the Conference, he furnished us the following appraisal, and I quote:

In my view, a major stumbling block in these negotiations is the desire on the part of most developing countries to use the deep seabed as a concrete opportunity to implement creation of a new economic order, which involves increased use of the collective power and control over the sources, quantity and production and prices of raw materials in contradistinction to the quest of the industrialized countries for new, secure sources of supplies of raw materials. For this reason, we have found progress in Committee One particularly difficult to achieve.

In addition, he stated that despite the efforts of some developing nations to be responsive to the concerns of industrialized countries little progress was made in bridging the gap among nations on the basic aspects of the system under which ocean mining will occur.

Further, Ambassador John R. Stevenson, the head of the U.S. Law of the Sea delegation, in his final press conference in Geneva on May 9, 1975, stated:

Basic compromises on this most difficult of issues have eluded all of us.

He was referring, of course, to the fundamental issue of the regime for the deep seabed.

In order for the United States to achieve a Law of the Sea treaty next year, we would have to make such fundamental concessions that I seriously doubt the treaty would ever be ratified. The United States delegations to the Law of the Sea Conference have consistently stated on the record that the United States will not sign a treaty that does not satisfy our basic objectives in terms of our national security and our resource interests. Taking those statements at face value, as I think we must, I cannot see how a treaty can possibly emerge that we can accept unless the developing nations utterly abandon their position. The more realistic appraisal of the timing of the Law of the Sea Conference is that several more very difficult negotiating sessions lie ahead before a consensus on all issues will be achieved. We cannot afford to wait to take action to protect our coastal fisheries.

Much has been made of the fact that the last session of the Law of the Sea Conference produced what is called a single negotiating text. We are given to believe that this text is virtually a final treaty. The facts are to the contrary. This text was developed by a small group of experts and was presented to the Conference on the last day of the session. It is simply the opinion of an informal group as to where they think the Conference is headed. It will undoubtedly be used in the next session of the Law of the Sea Conference as the point of departure for further debate. It does not set forth the provisions for a seabed regime which the United States can support, nor does it sufficiently guarantee our security interests. The introduction of the so-called single negotiating text was equivalent to dropping a bill in the hopper. A great deal of time may have gone into the drafting of the bill, but the entire process of committee deliberations and markup yet remains.

In summary, Mr. Chairman, enactment of this legislation will not disrupt the Law of the Sea Conference. [Sec. 2(c) (5)] There are simply too many other vital issues of concern to the rest of the world as well as the United States. The Conference will go on, I am afraid, for some time, and time is of the essence. In view of the complex issues that are being negotiated in the Law of the Sea Conference, it is inconceivable that these negotiations will be broken off by the enactment of H.R. 200. [Sec. 2(c) (5)] I have no doubt that a good deal of rhetoric will be wasted denouncing the United States, but this seems to happen virtually at every United Nations meeting these days. I am sure our negotiators will have enough intestinal fortitude to withstand that, but beyond the rhetoric I am confident negotiations will continue, and the delegate to the Conference will know without a doubt that the United States means business—that we will not allow our basic interests to be used as bargaining chips while the developing nations attempt to secure their so-called new economic order.

Mr. Chairman, I urge my colleagues on both sides of the aisle to support this vital legislation. It is a progressive bill—it is a conservation bill—it is a bill which will guarantee the availability of our vital fishery resources for the benefit of the United States and the world. [Sec. 2]

Mrs. SULLIVAN. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. Leggett), the chairman of the Subcommittee on Merchant Marine and Fisheries.

Mr. LEGGETT. Mr. Chairman, I have a 25-page speech, but I am not going to subject the Members to hearing it. It will be printed in the Record.

Mr. Chairman, we have gone through this a number of times. This is one of the more formidable pieces of legislation that this Congress will enact, and the President is going to sign in this session of the Congress. We are going to change only the fishing jurisdiction of the United States. [Sec. 2(c)(1); 2(c)(2)] We are not changing the territorial sea limits. [Sec. 2(c)(1)] We are not affecting the Department of Defense, we are not affecting straits, we are not affecting the International Law of the Sea, but we are giving them leadership. [Sec. 2(c)(2)] We are not acting unilaterally because in this 200-mile bill we are joining now a community of some 40 nations that have extended their fishing boundaries beyond 12 miles. There are unfortunately a number of countries that have claimed a 200-mile territorial sea which would preclude navigation and the right of innocent passage by a number of nations. We are alarmed by this. We will give leadership by the passage of this legislation to the folks in the United Nations and the folks on the Law of the Sea. We have drawn back from the Law of the Sea, since we passed the rule in this matter just a few days ago and unfortunately we have come to the conclusion, as has the State Department, as has the National Marine Fisheries Services, as has the Department of Defense, that we are not going to get much out of the Law of the Sea. We are going to get firm on the Law of the Sea. [Sec. 2(c)(5)] And as indicated before, the Law of the Sea is currently dominated by a very large number of "one nation, one vote" States who do not have large areas of ocean and who are trying to gain something for nothing.

We think that by being firm in this legislation and giving some leadership that we can set the pattern for future consolidation and action on the Law of the Sea. [Sec. 2(c)(5)] They have a single text there now which is not going to meet our objections. I will not go into that now.

A number of people are concerned with respect to this bill that we may be selling out the tuna industry.

I represent a part of the State of California and tuna is a big interest in our State. Tuna and shrimp comprise 23 percent of the fishing groups and we are certainly not going to sell this industry down the river. But we have to face the fact that we have the law of the jungle in the law of the sea with regard to tuna on the high seas and we have to give some leadership in this area.

In other words, this bill excludes tuna as a highly migratory species from the coverage of this legislation and all other highly migratory species and it will prevent an extended jurisdiction in that area. [Sec. 103] Second, we give tuna a bonus because we include in the bill a reimbursement provision for some items where payment is made in lieu of seizure and forfeiture and compensation cannot be obtained. We amend that to provide for compensation.

At the present time there is no automatic bailout. We have provisions in this bill that provide for procedures against nations who have not recognized American interests in fishing around the world. [Sec. 2]

We provide that where we do agree to a fishing license for other countries, part of the funds that are in this bill from such license fees will be earmarked to pay for American licenses around the world. **[Sec. 204(b) (10)]** Ten percent of those fees so collected can be used for that purpose. This is a matter of rather urgent concern. We have over 800 foreign boats that are currently operating off our shores. Fifteen years ago the foreign operations off our coast were but a few. At the present time the foreigners are taking more fish off of our American coast than Americans by a magnitude of a large percentage. So we have to do something about this. The solution is in this legislation. **[Sec. 2]**

Some folks have raised the question as to States' rights, and perhaps the provision that we have in this bill intends to occupy the 3-mile territorial area of the States. **[Sec. 306]** That is not the case. I devote about 6 pages of my prepared remarks to that situation, and I believe I pretty well lay out the intent of this bill and the legislative history, and spell out the response to the statement of the very distinguished Fish and Game Director of Florida, Mr. Harmon Shields. We lay out I think, an adequate response where we only intend to occupy the field in a Federal way. **[Sec. 306]** Where we have an impasse, the impasse has to be a rarity because the seven fishery councils that are established in this legislation are heavily dominated by State interests. **[Sec. 302]**

It is also the intention of our subcommittee and the intention of our full committee to exercise rather precise oversight over this legislation, and we are not going to let it get out of control. We do intend to maintain our existing relationships with the States' control. **[Sec. 306]**

The bill will not go into effect until next July 1. **[Sec. 104]** There is going to be a get-ready period of time. We are going to have to beef up our Coast Guard; we are going to have to beef up our National Marine Fisheries Service. The delay in implementation is for that purpose **[Sec. 104]** and also to see if the law of the sea negotiations which are going to take place in New York next year can get off the ground. **[Sec. 401]**

John Norton Moore, the current chief negotiator, does not believe that they can. I do not believe that they can, and I am not going to take any more time at this time.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding.

I have discussed this before with the chairman of my subcommittee. I wonder if the chairman could comment on whether or not by taking this action by an act of Congress we are not violating the treaty, the Convention of 1958 on Fisheries which we ratified on April 12, 1961. Does this action, if enacted into law, not conflict with the Convention on Fisheries and Conservation of Living Resources of the Seas done at Geneva on April 29, 1958?

Mr. LEGGETT. The answer to that is no. The committee has had prepared by the Library of Congress a rather elaborate brief on this point. The lawyer who prepared the document does indicate that there is what is called an arguable point, but he comes down on the side of the

fact that this is within the treaty. We can get into a rather elaborate description as to whether it is within or without. The practical matter is the treaty does not cover the fishery zone question and presumes that we are talking about various kinds of coastal species, et cetera, where we have bilaterals.

But where we have an expanded zone, it is the position of the lawyers that the treaty does not preclude the establishment of an expanded zone.

Mr. McCLOSKEY. If the gentleman will yield further, I have not seen this legal memorandum prepared by a lawyer of the Library of Congress, and I have not seen any opinion from the counsel of the Merchant Marine Committee on this subject. I have in front of me the Convention on Fisheries which seems to say that if any nation objects to nations fishing outside its 12-mile zone, or has a practice that is not conserving the fish outside the 12-mile zone, that the signatories to that treaty are bound to take up the dispute with a commission of 5 nations. What is there in this bill that would then be consistent with that treaty which we have signed, and which is part of the law of the land, which would require us to submit any dispute outside of the 12 miles to this 5-member commission?

Mr. STUDDS. I wonder if the gentleman from California can point to us in the text of that convention where there is any reference to a 12-mile zone.

Mr. McCLOSKEY. It was international law at the time. As I recall this Nation claimed that the *Pueblo* was within its rights when it sailed within 12 miles of the North Korean Coast.

Mr. STUDDS. I challenge the gentleman to point to anything in this or any other law which would point to a 12-mile limit which is recognized in international law. There is no precisely clear international law at the moment. The limits range from 10 to 12 miles to 200 miles and the situation is entirely unclear except if one wants to look, as lawyers tend to look, at what is the emerging trend which seems to point to such a distance.

Mr. McCLOSKEY. We have letters from Louis B. Sohn of the Columbia Law School and from Hamilton Fish, professor of international law and diplomacy, Louis Henken, and William Bishop, Jr., of the Law School of the University of Michigan, and Edwin Dickinson, another university professor of international law, and all of them state that in their opinion this would be clearly in violation of international law.

What is the legal opinion to the contrary?

Mr. STUDDS. If the gentleman will yield further, I would really give challenge to the gentleman to cite the law.

Mr. McCLOSKEY. As I understand the law, until 1945 we urged other nations to accept a 3-mile territorial limit. In that year President Truman proclaimed a 12-mile fishery limit. The only nations today which have claimed the fishing jurisdiction out to 200 miles are not signatories to this 1958 Convention of the High Seas. Is that not correct?

Mr. STUDDS. I beg to differ with the gentleman. The Truman declaration pertained not to fisheries and fishery zones but to resources of the Intercontinental Shelf. Under President Truman in 1945 this Nation asserted its jurisdiction to resources under the shelf. In 1966 under the

unilateral legislative action by this Congress the United States for the first time extended its fisheries jurisdiction to 12 miles.

Mr. McCLOSKEY. That has been accepted as international law as of this time; has it not?

Mr. STUDDS. It has not. It depends on the meaning. Some nations have, but there are nations which claim widely diverging limits.

Mr. LEGGETT. Mr. Chairman, I would like to recapture my time.

I would respond to the gentlemen in this way. In the analysis I am going to put in the Record there will be a complete and rather extensive analysis covering from 35 to 40 pages with enclosures relating to a number of international cases and this is from Mr. Sayle from the Library of Congress and he says:

There would seem to be no inconsistency between Title I of H.R. 200 and the 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas [17 U.S.T. 138]. Technically, the validity of Title I, which establishes an exclusive fishery zone, should not be measured against the Geneva Fisheries Convention, which is concerned with the right of a coastal State to take unilateral conservation measures. This distinction is apparent from the following explanation by Bishop:

It must, of course, be recognized that the [Geneva Fisheries Convention] does not deal with the situation in which the coastal State wants not merely to regulate the fishery but also to reserve a high seas fishery exclusively for its own nationals. * * *

Mr. EMERY. Mr. Chairman, is it not also true that the United States is the only fishing nation that has ratified the fishing agreement to which we have referred? Is it not also true other nations such as Japan and the Soviet Union and East Germany and Poland that conduct major fishing expeditions off the American coast have not ratified this treaty and, therefore, do not recognize its provisions?

Mr. LEGGETT. I believe the gentleman is correct.

Mr. FRASER. Mr. Chairman, in connection with this discussion of whether this bill would be in violation of international law and treaty agreements, the gentleman from California cited international law scholars who, as I understood, said this would violate international law and so on. Does the gentleman have a specific written opinion from a scholar of known repute who would defend his view? Is it in the committee report, for example?

Mr. LEGGETT. We have included this complete analysis in my report, because we received it after the report was published; but I am satisfied that the analysis we have here is the best available.

Mr. FRASER. Does the analysis of the gentleman claim that we have the right unilaterally to assert whatever fishing limit we want to the exclusion of other nations? [Sec. 101]

Mr. LEGGETT. Well, they point out, very frankly, that there are two schools of thought. There is a school of thought that they cannot do it. There is also the school of thought that they can. They have gone on to explain why they can or why they cannot; but what they state very simply is that the law is extremely unsettled, considering the fact that the Geneva Convention was limited to, considering the fact of long standing a large number of nations have claimed a 50-mile, a 200-mile fishing limit, a 200-mile territorial sea, and so forth, considering it says that the only case that came down in this area was the Icelandic case. The Icelandic case was concerned with Great Britain's fishing rights off the coast of Iceland for virtually tens of decades.

They say this Icelandic case is clearly different than anything we refer to. We do not intend to confuse fishing rights with long-standing limitations.

Mr. FRASER. But the bill makes a claim totally at the will of the U.S. Government and there is no existing right of other nations which is recognized.

The gentleman referred to the Iceland case. I am reading from the court decision, which says:

The provisions of the Icelandic regulations of 14 July 1972 and the manner of their implementation disregard the fishing rights of the applicant. Iceland's unilateral action thus constitutes an infringement of the principle enshrined in article 2 of the 1958 Geneva Convention on the high seas . . .

This is a convention which we have signed and ratified. It is a treaty obligation the United States has. Does the gentleman claim we can make a unilateral claim of a new limit [Sec. 101] and not be in violation of the 1958 treaties?

Mr. LEGGETT. The answer is that the Icelandic Treaty has been delineated and interpreted by our legal scholars as only referring to that situation which is before the court immediately for dicta, which may represent the statement of a particular distinguished international jurist; but the facts of the case are really related to the situation where one country had been precluded by the unilateral action of a State from exercising an inherent right to fish, and not under a program as we propose to do in this act, [Secs. 2; 102] but under a mutual reciprocity which we do not have.

Mr. Chairman, H.R. 200 represents many, many hours, days, weeks, months, and years of serious study by our committee. It has been reported only after the problems and issues it addresses have been considered in increasing degree in three Congresses. Our committee last year held 10 days of field hearings in 10 States on 3 coasts seeking and evaluating the testimony of concerned fishermen, industry representatives, conservation organizations, and other appropriate citizens and interest groups. The views and counsel of executive branch personnel in the National Marine Fisheries Service, the Coast Guard, the Department of State, the Department of Defense, the National Security Council Interagency Task Force on the Law of the Sea were also sought and considered most carefully. Our committee has been represented by members and staff at the Law of the Sea Conference negotiations, first at Caracas last summer, and at Geneva this past spring. I personally attended the Geneva session to follow closely and directly the progress—or lack thereof—of the conference and to speak with many of the principal participants.

This past March, my Subcommittee on Fisheries and Wildlife Conservation and the Environment held an additional 9 days of hearings here in Washington, and only after this additional intelligence and testimony were duly weighed did we commence markup of the bill which ultimately was reported out of the full committee on August 20.

Mr. Chairman, the information developed at the committee's hearings indicated that the Atlantic coast fisheries in the New England area were in the greatest trouble by far as a result of foreign fishing activities. [Sec. 2] For example, from 1952 to 1960, the U.S. catch from New England waters averaged around 700 million pounds per

year—roughly 99 percent of the catch for that area. Then came the steady intrusion of Russian, Polish, German, and other foreign fishing fleets, until today vessels from more than 20 other nations are actively taking fish in these waters. By 1970, the Russian fleet alone brought in 836 million pounds, about 50 percent more than the catch averaged in the 1952–60 period caught by the United States, while the United States took only half that amount or 25 percent of the total catch. Consequently, in only 10 years' time the U.S. catch in this area has been unless remedial action of some sort is taken soon. [Sec. 2]

The testimony also indicated that our gulf coast fisheries were in a state of decline and depression as well. However, this situation was primarily due to the increase in costs of fuel and operation and maintenance expenses, and not due to foreign fishing activities in the area. However, the fear was expressed that, given the declining state of the New England fisheries, it is only a matter of time before the foreigners shift their attention to the more plentiful resources of the gulf.

There has also been a severe decline in U.S. fishery production in the Pacific Northwest and the State of Alaska, where fish stocks are threatened by huge foreign trawlers and factory ships, mainly from Japan and Russia. For example, we have witnessed the California sardine catch decline from 564,000 pounds during the period of 1951–55 to only 1,000 pounds during the period from 1971 to 1973. For all practical purposes, this fishery has been eliminated and many others will follow unless prompt action is taken, such as that called for by H.R. 200. [Sec. 2]

Mr. Chairman, this bill seeks to halt the increasingly severe and threatening depletion of the fisheries resources of concern, interest, and custodial responsibility of the United States, not only for the benefit of the American people—present and future—but for a world populace whose protein and other nutrition needs may be increasingly dependent on the biological bounty of the oceans, a bounty of enormous potential if properly conserved and managed. [Sec. 2]

Mr. Chairman, the highlights of this bill—which would regulate all species of fish [Secs. 2; 101] except highly migratory species, such as tuna, which are to be regulated by international fishery agreements [Sec. 103]—are as follows:

First. Extension of the U.S. exclusive fishery zone from 12 to 200 miles beyond the base line from which the territorial sea is determined [Sec. 101], effective July 1, 1976. [Sec. 104]

Second. A comprehensive management program governing U.S. and foreign fishermen within the zone. [Secs. 102; 201]

Third. Creation of seven regional marine fisheries councils to assist the Secretary of Commerce in developing regional management plans and regulations. [Sec. 302]

Fourth. Authorization for the charging of reasonable Federal license fees for all those fishing within the zone—including American fishermen [Secs. 204(b)(10); 303(b)(1); 304(d)]—the proceeds of which will be earmarked for stock assessment and research [Sec. 304(e)], except that a portion of such fees imposed on foreign fishermen could be used to reimburse U.S. fishermen for license fees imposed on them for fishing off the coast of foreign nations. [Sec. 204(b)(10)]

Fifth, priority rights for U.S. fishermen within the zone, with excess stocks to be shared with foreign nations licensed by the Federal Government. [Secs. 201; 204]

Sixth, Submission to Congress, for possible disapproval within 60 days of signing, of all bilateral fishing agreements with foreign nations permitting fishing within the 200-mile zone or for anadromous fish beyond the zone if subject to a management plan. [Secs. 202; 203]

Seventh, The banning of seafood imports from foreign nations which refuse to grant equitable access, consistent with reasonable management and conservation practices, to U.S. fishermen with respect to waters they have previously fished. [Sec. 205]

Eighth, Imposition of penalties against all violators of the provisions of the act. [Secs. 308; 309; 310]

In our consideration of this legislation and of the issues intertwined therewith, we repeatedly found three areas of principal concern to the many parties from whom we heard. First, while most domestic fishermen favored mightily the protection of our fishery resources which an extended fishing zone would bring, some distant water American fishermen—principally the California-based tuna industry and the gulf coast shrimpers—were opposed to the extension on the grounds that our action in that respect would elicit retaliatory action by nations off whose waters our men now take tuna and shrimp. A second area of concern was the ever-present arena of Federal-State relations and the resolutions of possible conflicts of management jurisdiction and authority concerning fish stocks presently managed by the State—that is, out to 3 miles. [Sec. 306]

The third area of significant conflict concerns the principles of international ocean law, the ongoing Law of the Sea Conference negotiations aimed at achieving new, modern, and more sophisticated international agreements relating to maritime law, and the alleged positive and negative impacts which unilateral action by the United States as represented by H.R. 200 might have on these U.N. Law of the Sea meetings and negotiations. [Secs. 2(c)(1); 2(c)(2); 2(c)(5); 401] I would like to comment on our reaction to each of these areas and indicate how the legislation before you addresses each issue.

With respect to the issue of the rights of our own distant water fishermen, if I may be permitted a personal note, I can assure you that with the interests of our California tuna fishermen at heart, I was very sensitive to this issue and its implications. I had my responsibilities to my constituents and my colleagues in the California delegation, as a single Congressman, and I had my responsibilities to the larger society in my capacity as subcommittee chairman. I do believe the provisions we have in this bill are reasonable and fair for all concerned. We are seeking to protect the interests of our distant water fishermen who may be victims of other nations' establishment of 200-mile zones in three significant ways.

First, section 203 of the bill requires the Secretary of State, within 90 days of the bill's enactment, to commence negotiations with each foreign nation off whose shores American fishermen currently take significant harvests of fish so as to assure continued participation by American fishermen in the harvest of those fish stocks which they have traditionally fished. [Sec. 202] If the Secretary finds an unwillingness

to negotiate in good faith, an unwillingness to permit continued American participation in such fisheries, or violation of any agreement in existence or which may be reached in furtherance of these American objectives, then the Secretary must certify this fact to the Secretary of the Treasury, who would then be required to act to prohibit the importation into the United States of any seafood product from such nation. [Sec. 205] Similar triggering of this economic sanction would occur as well where a U.S. vessel is illegally seized by a foreign country off whose shores American fishermen have previously fished. [Sec. 205]

Second, H.R. 200 would amend the Fishermen's Protective Act to make it clear that the reimbursed charges for which American fishermen will be reimbursed when their vessels are seized by foreign governments for fishing within another nation's claimed fisheries zone would include any levy, however characterized or computed, which is imposed in addition to any fine, license fee, or registration fee. [Sec. 403] This charge was necessary because when Ecuador seized a number of American tuna boats last winter for violation of that country's claimed fishing zone, she required the vessels' owners to pay the monetary value of the fish on board in lieu of having their fish confiscated. Present law allows for compensation of the loss of confiscated fish, but not for the monetary value paid in lieu thereof.

Thus, the bill's provision to broaden the coverage of reimbursement situations will further protect our distant water fishermen from this form of loss when they are seized in waters the United States considers high seas. [Sec. 403] Third, section 306 of H.R. 200 would provide for the assessment of license fees on foreign fishermen fishing within American claimed waters [Sec. 204(b) (10)]; 10 percent of such fees would be required to be deposited in a separate account to reimburse American fishermen for license fees they may have to purchase in order to fish off another country's shores. This provision of the bill also offers additional protection to the distant water fishermen who have legitimate concerns about their continued welfare as various nations reassess the limits of their fisheries zones. [Sec. 204(b) (10)]

The second major area of strong concern was that of Federal against States rights with respect to jurisdictions and management authorities. [Sec. 306] Through the composition of the various regional fisheries councils [Sec. 302]—which allow for strong private and State participation—the States will have direct impact on the development of the marine fishery management plans which the Secretary of Commerce will then implement. [Secs. 302; 303; 304; 305] Some States will have representation on more than one regional council. [Sec. 301] The bill provides for the maximum amount of professional and scientific involvement in the preparation and development of management plans and strategies [Secs. 302(g); 303]; it is the expectation of our committee that there will be very little and infrequent conflict between States and the Federal Government over management of the various fish stocks because of the high professional caliber of the fisheries biologists who will be involved, whether the payroll they be on be Federal or State. [Sec. 302]

Section 309 of the bill makes it clear that nothing in the act extends or diminishes the jurisdiction of any State seaward of the coastline of

the United States except in special and restricted instances when the Federal Government could assert regulation of certain fish stocks in the territorial sea. [Sec. 306] This possible Federal override of State authority within the territorial sea is contemplated only in exceptional cases; for example, where the fish range readily across one or more State borders and integrated Federal regulation and management would be superior to inconsistent and perhaps conflicting regulations of adjacent States with respect to the same species. [Sec. 306 (b) (1)]

However, before the Federal Government could assert jurisdiction in the waters of any State, the Secretary would be required to find that the State's action—or the State's failure to take action—will substantially and adversely affect the carrying out of any Federal management plan that may have been developed with respect to a particular fishery. [Sec. 306(b) (1) (B)]

Perhaps the most serious, but surely the most outspoken and consistent, opposition to this bill has come from the State Department. It has been the position of that Department that unilateral action by the United States in establishing an extended fisheries zone [Sec. 101] would jeopardize the ongoing Law of the Sea negotiations [Secs. 2 (c) (5) : 401] which are the best hope for an effective solution to complex international maritime issues, that retaliatory action by some nations would work to the immediate disadvantage of our own distant water fishermen, that some nations might take less measured and reasonable action than we are contemplating if we do act unilaterally [Sec. 101], and that pending ultimate achievement of Laws of the Sea goals, continued emphasis on negotiated appropriate bilateral and multilateral fisheries agreements can buy the additional resource protection and domestic fishermen protection which they concede are badly needed.

Mr. Chairman, I and other members of our committee have been unpersuaded by the arguments of the State Department for a number of reasons. Let me go over the most compelling ones as I see it:

The Law of the Sea Conference is a worthy, necessary, and desirable effort; I truly hope it is ultimately successful. But it is very likely years away from conclusion when one considers we have not yet achieved agreement on a draft treaty, let alone obtained the requisite number of signatures, the sequential ratifications and the various individual legislative actions necessary to implement any resulting international law agreements. Two years ago, we heard Ambassador Stevenson and Mr. John Norton Moore, chairman of the National Security Council Interagency Task Force on the Law of the Sea—our principal representatives at the Law of the Sea negotiations—urge Congress to defer its consideration of unilateral action on these fisheries issues until after the Caracas meetings because they felt optimistic real progress would be made. It was not.

Again, this year, we were told to be patient a little longer, for what Caracas failed to do, Geneva would surely achieve. But it did not. Now, the State Department line is—wait till next year, in New York. Mr. Chairman, with all due respect to Secretary Kissinger, Ambassador Stevenson, and Mr. Moore, to their good intentions and the difficult complexities involved, it is naive to expect us or anyone to believe that we are closer than 5 to 8 years from ultimate implementation of

whatever complex international agreements may finally come from the Law of the Sea Conference. This is time that is absolutely, unalterably, and most emphatically of critical importance to a number of invaluable fish stocks now depleted or facing imminent depletion. We cannot afford not to act right away. [Sec. 2]

The records of the past 20 years, in the case of a wide number of multilateral and bilateral fishing agreements, just does not support the optimism of the State Department that more of them nor renegotiation of existing ones will provide the answers to the overfishing and other fish stock management problems which urgently cry for attention. H.R. 200 also calls for more bilateral and multilateral negotiations, but from a position of strength after we have acted to assure we will still have our fish resources left to negotiate over. [Sec. 202] Even ICNAF—the International Convention of North Atlantic Fisheries—by some accounts the most sophisticated and successful of all of our fisheries agreements, has been singularly unsuccessful in protecting a number of species such as the haddock from extreme overfishing and even commercial extinction. I assure you any Boston, New Bedford, and Point Judith fisherman can so affirm.

The argument that unilateral American action will torpedo sensitive Law of the Sea negotiations and unleash a flood of other nations' unilateral acts is singularly unconvincing. First of all, H.R. 200 is most carefully constrained to deal only with the fish resources of the oceans [Secs. 101; 102], and does not interfere with negotiations about straits, islands, mineral resources, defense requirements, and so forth. [Sec. 2(c)(1); 2(c)(2)] Even the highly migratory species of the open seas are excluded from provisions of the bill. [Sec. 103]

Second, this measure is clearly interim in nature with respect to the provision in the bill that provides that any Law of the Sea agreement that may ultimately be enacted by the international community—including the United States—would then supersede this legislation. [Sec. 401]

Finally, the provisions of this bill insofar as extended fisheries jurisdiction is concerned are completely consonant with the emerging consensus at the Law of the Sea meetings, and with the publicly expressed position the State Department has indicated it could accept and to which it expects to ultimately agree. [Sec. 2] Even without U.S. action, other nations have extended their fishing zones unilaterally and more continue to do so. We may be accused of jumping on a bandwagon, but not of starting one.

In short, Mr. Chairman, I think we have a very responsible bill. It provides for the immediate needed action [Secs. 2; 104] and it is responsive to our other national interests, especially with respect to the Law of the Sea negotiations [Secs. 2(c)(5); 401] and our international fishing and conservation responsibilities. [Sec. 2]

It has the strong support in general of all of our coastal fishermen, sportsmen, and conservation groups, and it has been cosponsored by 148 Members of the House.

Mr. Chairman, I would like to point out that our committee is not alone in its thinking that the time for unilateral action has come. Just this week we received the fourth annual report of the President's own National Advisory Committee on Oceans and Atmosphere which now shares our view. This august body of experts in its previous three re-

ports strongly advocated caution and reliance on the Law of the Sea Conference, but let me quote from their most recent pronouncement:

NACOA, noting that the Law of the Sea Conference has been unable to come to agreement after a protracted period of preparation and negotiation, and finding that pressure on living resources and the marine environment off our coasts requires urgent action to bring their use under positive rational management, recommends that:

Legislation be enacted asserting United States jurisdiction over resources within a zone, out to 200 miles off the United States coast. . . .

The President's committee goes on to more specific recommendations for the management of fisheries within the zone [Sec. 102] which largely parallel the provisions of H.R. 200.

Our committee and the President's committee have taken different routes but we have reached the same conclusion: The time for action is now.

Mr. Chairman, now I would like to respond to a number of questions raised in letters from Mr. Harmon W. Shields, executive director of the Florida Department of Natural Resources, dated September 2 and 26, 1975, to certain members of the Merchant Marine and Fisheries Committee and the Florida Delegation concerning H.R. 200.

Mr. Shields' opposition to the language of H.R. 200 centers on a number of points, but generally he objects to ultimate authority lying with the Federal Government—in this case, the Secretary of Commerce—rather than with the States or the regional councils provided for in the bill. [Secs. 302; 304; 306] This matter was thoroughly considered by our committee. We believe that ultimate authority must rest in the Federal Government, but every possible precaution has been taken to assure that such authority will be used to preempt traditional State authority only where necessary in the national interest. [Sec. 306]

It is the intention of our committee that the initiative for management plans will come from the regional councils on which adequate State representation has been provided. [Sec. 302] This intention is clear in both the bill and the committee's report. Let me review with you the specific areas mentioned in Mr. Shields' letter and the protections provided:

His main concern involves the right of the Federal Government—in this case, the Secretary of Commerce—to preempt the States in the regulation of a marine fishery except for "internal waters," which are not defined in the bill or the committee report on the bill. [Sec. 306]

The section in question is section 309 [Sec. 306], which certainly does not provide carte blanche authority for Federal preemption of States rights. In fact, section 309 [Sec. 306] commences by noting that, except for very special cases as provided in subsection (b) [Sec. 306(b)], nothing in this act shall be construed as extending or diminishing the jurisdiction of any State seaward of the coastline of the United States [Sec. 306(a)]. Subsection (b) [Sec. 306(b)] finds that anadromous species, certain coastal species, and certain Continental Shelf species move during their life cycles within waters over which more than one State has jurisdiction, and move from such waters to waters that are not within the jurisdiction of any State; for example, those waters seaward of the territorial sea—3 miles—of the United States.

Subsection (b) [Sec. 306(b)] further finds that this legislation is not intended to affect State jurisdiction over fish principally found within waters under its jurisdiction; however it notes that there may be instances at certain times—such as when it has been determined that a fishery management plan needs to be developed to protect a certain fishery on the high seas beyond the territorial sea and such a plan is developed, either by a council or the Secretary—when Federal regulation in the waters under State jurisdiction may be necessary in order to insure the effectiveness of the management plan to be implemented.

Now, before such a management plan can be applied, the Secretary must first notify the particular State affected of the plan and give such State an opportunity to have a hearing on the plan pursuant to the Administrative Procedure Act. Next, if the Secretary determines after such hearings—which, in most cases, I feel sure the State would request—that the plan would affect a species of fish which is to any extent under the jurisdiction of such State and such State has failed to take action, or has been taken action the result of which will both substantially and adversely affect the carrying out of such plan, then and only in such rare cases will the Federal Government be able to regulate such fishery. [Sec. 306(b)]

Therefore, please take note that an implemented management plan must be violated or jeopardized by State action or inaction before there can be Federal preemption. [Sec. 306(b)] The Marine Fisheries Councils provided for under this act are intended to have meaningful State representation, and they are the bodies expected to develop the management plan. [Sec. 302] Only if they fail to do so or fail to produce a plan, as contemplated by the act, can the Secretary of Commerce then act without the concurrence of the council concerned. [Sec. 306(b)] I submit that these conditions are such that it is likely that they will be realized rarely, if ever. They are provided to guarantee that the fisheries that need to be regulated and managed, do not suffer for failure of one or more States or Regional Councils to act in pursuit of the policies established by this act; and if they function as we intend, Federal preemption shall remain but a future option. [Sec. 306(b)]

Also, I draw your attention to the provision for restoration of State authority and regulation—section 309(c) [Sec. 306(c)]—as soon as the reasons for any Federal preemption which may have occurred have been removed. This reaffirms the committee's intent that the State shall continue to have and to exercise their proper rights and responsibilities to the greatest degree consonant with the national interest and proper stewardship of our fisheries resources.

Next, with respect to the definition of "internal waters," it is true there is no definition of such waters in the act. [Sec. 306(b)] It was felt by the committee that there was no need to define such waters since section 104(2) [Sec. 306(a)] makes it clear that the jurisdiction of any State over any natural resources beneath and in its internal waters are not to be diminished that is inland from the coastline.

Furthermore, section 104(3) [Sec. 306(a)] provides that, except as may be provided pursuant to section 309—in those unusual situations which may occur when a fishery management plan is implemented for a particular fishery—the jurisdiction of any State over any natural

resource beneath and in the waters of the territorial sea—out to 3 miles—are not to be diminished.

Next, with respect to the assessment of license fees [Sec. 304(d)] and their application toward support of fishery research and development [Sec. 304(e)], the important points to keep in mind are that the fees—if any are provided for pursuant to a fishery management plan—are to be collected and held in accounts associated with each approved fishery management plan and are to be approved in the geographical area of the Council concerned. [Sec. 303(b)(1)] In general, the committee expects the management plan to be developed by the Regional Council concerned [Sec. 302], which, in turn, will have meaningful State representation on it. It is only when a Council fails or refuses to develop a needed plan that the Secretary would come forward with a plan for a particular fishery. [Sec. 304(c)]

In the latter case—where the Secretary develops the plan that calls for fees [Sec. 304(c)]—the committee expects the Secretary to consult with the appropriate Council and States concerned as to how the funds are to be utilized for research and development [Sec. 304(e)] and make every effort to honor the recommendations of the Councils and States in this regard. [Sec. 304(c)]

It should be stressed that it is entirely optional as to whether fees will be charged or not under such a plan and if the plan calls for fees to be charged, then it would be only after they have been subjected to State influence and recommendation. [Sec. 303(b)(1)] Mr. Shields is incorrect in his understanding that civil penalties [Sec. 308] imposed against violators of the act would be deposited in the research account. Such penalties are to be deposited in the general fund of the Treasury. [Sec. 304(d)]

It is true that the Secretary of Commerce could act as both judge and jury in determining whether civil penalties are to be imposed against violators. [Sec. 308] However, there are a number of Federal laws on the books that now provide for this type of procedure, such as the Endangered Species Act of 1973, the Marine Mammal Protection Act of 1972, and others. Also, it should be noted that in each of these acts—just as it is provided for under this act—the Secretary, after considering the circumstances surrounding any violation, has the authority to compromise, modify, or remit, with or without conditions, any civil penalties imposed. [Sec. 308] In addition, any person against whom a penalty has been assessed would be able to have his case reviewed by an appropriate U.S. district court if he is dissatisfied with the final decision of the Secretary. [Sec. 308(b)]

Finally, Mr. Shields expressed concern over a number of other points: That the ultimate authority rests with the Secretary as to the appropriateness of a plan or as to whether a license fee could be imposed against a commercial or sport fisherman, or that the Secretary could veto a Council's plan without some authority for the Council to override the Secretary's veto. [Sec. 304] The committee was well aware of the concerns expressed by Mr. Shields since they were brought to the attention of the committee during markup sessions by a number of Members expressing these same concerns. However, after much deliberation, it was determined by the committee that the only workable solution was to have the final say-so over any matter lie with the Federal Agency concerned with such matters. [Sec. 304]

However, before exercising such veto authority [Sec. 304(a); 304(b)] or drawing up a management plan, on his own initiative [Sec. 304(c)], the committee intends for the Secretary of Commerce to make every effort to see that whenever possible the views of the States or the Councils are honored. [Sec. 304] It is only in these unusual situations, where the fishery concerned would be substantially and adversely affected, that the Secretary would not honor such views or recommendations. [Sec. 304]

Also, it should be pointed out that the committee is well aware of the continual squabbles between the States on certain fisheries matters; for example, the spiny lobster problem as it relates to the States of Florida and Georgia. In this situation, the Florida law is more protective of the spiny lobster than the Georgia law; consequently, it has been argued that the Florida law is being circumvented. In this regard, it should be noted that Mr. Shields, in a statement on the legislation, H.R. 2473, before the Committee on Merchant Marine and Fisheries, urged the adoption of an amendment to the bill that would authorize the Secretary of Commerce to preempt the States in their regulation of spiny lobsters in certain situations. The amendment reads as follows:

All State laws pertaining to the regulation of the taking or harvesting of such lobsters will remain in full force and effect until such time as the Secretary reviews and passes judgment as to their adequacy and conformation to Federal regulation.

Mr. Shields' positions on H.R. 200 and on H.R. 2473 are clearly inconsistent, but it is clear that even he recognizes there are some cases where Federal preemption is necessary.

Finally, Mr. Chairman, I would like to respond to a letter I received from Mr. Evelle J. Younger, the attorney general of the State of California, dated September 30, 1975, concerning H.R. 200.

Mr. Younger argues that the bill should be amended to provide that where a State has an established "legitimate interest" in an extra-territorial resource, the "right" to manage that resource should be continued and not contravened nor preempted by Federal authority so long as no other State has a legitimate interest. The particular case in point concerns shrimp beds outside California's territorial waters, but which the State has regulated since their discovery and which constitute an important resource for certain California industries. Mr. Younger opposes replacement of the State by the Federal Government in managing this resource—which could occur if H.R. 200 is enacted as presently written and shrimp is the subject of a management plan—on the grounds that the State has performed well in managing this resource when the Federal Government has not nor ever sought to manage it. [Secs. 302; 304; 306]

There is no arguable point of law here that the Federal Government is other than clearly the party with proper constitutional jurisdiction. [Sec. 306] Recent Supreme Court decisions—for example, United States against Maine; United States against Alaska—have clearly established the Federal right to manage the resources beyond the 3-mile territorial sea. [Sec. 306] There is no reason to believe that proper professional, scientifically based management of these shrimp beds cannot be carried out by Federal officials in cooperation with pro-

fessional State officials and biologists as they have been by State people alone. Accordingly, California interests in the resource will still be protected. [Sees. 302; 303] California would continue to have a meaningful role in the regulation of this resource through the statutory—proposed—functions of the Pacific Marine Fisheries Council to which it would be a member. [Sec. 302] But to seek to legislatively provide for continued State jurisdiction beyond State waters would be asking for a spate of similar exceptions by other States and would be unnecessarily confusing. [Sec. 306]

Also, the reason the Federal Government has not exerted itself in this area before, as it relates to American fishermen, is because of its lack of authority to manage these fishermen. H.R. 200 would, for the first time, provide the Federal Government with that authority. [Sec. 102]

Mr. Chairman, I urge the prompt passage of H.R. 200.

I include the following:

[From the Congressional Research Service]

CONSTITUTIONAL AND INTERNATIONAL LEGAL IMPLICATIONS OF THE PROPOSED
MARINE FISHERIES CONSERVATION ACT OF 1975 (H.R. 200, 94TH CONG.)

(By David M. Sale, Legislative Attorney, American Law Division,
September 17, 1975)

I. CONSTITUTIONALITY OF H.R. 200

There are several questions which might be raised concerning the constitutionality of H.R. 200. Specifically, these questions relate to (a) the power of Congress vis a vis that of the states and to (b) the validity of the Congressional veto procedure authorized in Sec. 206 of the bill.

A. Congressional power

Title I of H.R. 200 establishes an exclusive fishing zone of 200 miles in which exclusive rights are to be exercised by the United States [Sees. 101 and 102]. As state jurisdiction over natural resources beneath and in internal waters remains unaffected by this zone [Sec. 104(2)], there would seem to be no basis for a constitutional objection grounded upon an alleged infringement of state powers in these waters.

With regard to territorial sea waters, section 104(3) of the bill provides that in general, state jurisdiction to any natural resource beneath and in such waters is not diminished. The one exception to the undiminished state jurisdiction in the territorial sea is authorized by Sec. 307, which allows Federal regulation of certain stocks of fish in the territorial sea in specified instances. In essence, this exception is based on the findings that (1) certain fish species move during their life cycles within waters over which more than one State has jurisdiction or from such waters to waters that are not within the jurisdiction of any state, and (2) federal regulation may be necessary in order to insure the effectiveness of a management plan. Accordingly, if the Secretary of Commerce finds, after notice and hearings that any fishery management plan implemented pursuant to the Act applies to any species under the jurisdiction of any State, and that such State has taken any action, or omitted to take any action, the result of which will substantially and adversely affect the implementation of the plan, he shall declare and assert federal regulation of the fishery within the state's territorial waters.

There would seem to be little basis for asserting the unconstitutionality of the federal regulation sanctioned by the above provision. The paramount authority of the National Government in the three-mile belt has been recognized in *United States v. California*, 332 U.S. 19 (1947), *United States v. Louisiana*, 339 U.S. 699 (1950), *United States v. Texas*, 339 U.S. 707 (1950), and was recently reaffirmed in *United States v. Maine*, 420 U.S. 515 (1975). While these cases were concerned with state seabed claims, the paramount federal interest recognized

by the Court in these decisions would seem to be equally applicable to fish within the territorial sea of a state. As stated by the Court in *United States v. Louisiana, supra*:

"The claim to our three-mile belt was first asserted by the national government. Protection and control of the area are indeed functions of national external sovereignty. . . . The marginal sea is a national, not a state concern. National interests, national responsibilities, national concerns are involved. The problems of commerce, national defense, relations with other powers, war and peace focus there. National rights must therefore be paramount in that area." 339 U.S., at 704.

Finally, there would also seem to be no basis for a constitutional objection to the assertion of federal jurisdiction in waters beyond the territorial sea. As stated by the Court in *United States v. Maine, supra*, since the three-mile belt is subject to the paramount rights of the National Government, it follows that the waters and seabed beyond that limit are governed by the same rule, 420 U.S. at 521.

B. Congressional veto procedure

Section 201(f)(1) of H.R. 200 provides that any application for a fishing permit submitted by a foreign nation, when tentatively approved by the Secretary of Commerce, shall be deemed an "international fisheries agreement." Section 206(a) of the bill specifies that any international fishery agreement (other than a treaty) entered into after the date the bill is enacted, and any amendment entered into after such date to any international fishery agreement concluded prior to such date, will come into force for the United States only if before the close of 60 days from the date the agreement is transmitted to Congress neither House has adopted a resolution of disapproval. Thus, H.R. 200 preserves a right of Congressional disapproval or "one-House veto" with regard to two categories of international fishery agreements: 1) those made after enactment which, by virtue of Sec. 201(d) must contain specified conditions and restrictions, and 2) those made after enactment which amend preexisting agreements and which must also contain the conditions and restrictions of Sec. 201(d).

The Congressional veto device has frequently been employed in executive branch reorganization legislation and has recently been extended to other areas, as in Sec. 5(c) of the War Powers Act, 87 Stat. 555. In the Ninety-Fourth Congress, several bills have been introduced which authorize the same procedure for executive agreements in general. See, for example, H.R. 4438, S. 1251, and S. 632.

One of the principal constitutional objections to the Congressional veto device is that by allowing Congress to disapprove Executive action through a resolution which is not submitted to the President for his signature, the President's constitutional role in the lawmaking process is undermined. That role is specified in Article 1, Sec. 7, cl. 3 of the Constitution, which requires that every order, resolution or vote to which the concurrence of the House and Senate may be necessary shall be presented to the President for his signature. This constitutional requirement has not been interpreted literally, but nevertheless applies to resolutions which are legislative in character and effect. See S. Rep. No. 1335 54th Cong., 2d Sess. (1897) in 4 *Hind's Precedents of the House of Representatives* 329-332 (1907).

It is arguable that the Congressional veto authorized by Sec. 206 of H.R. 200 is "legislative" in effect because, in the absence of this provision, international fisheries agreements concluded under Sec. 201 of the bill, containing, of course, all the restrictions and conditions of Sec. 201(d), would otherwise become the Law of the Land. Thus, Sec. 203 has the effect of reserving a future right in Congress to disapprove, through a device which exclude Presidential participation **guaranteed by the Presentation Clause of the Constitution, agreements which** would otherwise be part of the Supreme Law.

It may be added that while the veto mechanism authorized by Sec. 206 allows Congress to insure that international fisheries agreements are in fact concluded in accordance with the conditions and restrictions of Sec. 201(d), the constitutional responsibility for taking care that the laws are faithfully executed rests with the President. Hence, Sec. 206 of the bill may also be an infringement of Art. II, Sec. 3 of the Constitution.

In response to the foregoing objections, it could be asserted that the fact of passage of the original legislation is sufficient compliance with Article 1, sec. 7

of the Constitution to overcome any challenge against the actual use of the Congressional veto. Arguably, the President, in signing the original legislation (or in having it passed over his veto), consents to the use of the veto device as a necessary mechanism to implement a desired Congressional policy. Further, the subsequent exercise of the disapproval procedure is not tantamount to new legislation, but merely constitutes the fulfillment of the will of Congress as expressed in the underlying statute.

It may also be contended that the congressional veto device does not infringe the President's constitutional power to take care that the laws are faithfully executed (Constit. Art. II, Sec. 3). Recognizing that a rigid compartmentalization between legislative and executive functions cannot always be made and, indeed, could hinder the proper functioning of government, it is arguable that Congressional vetoes are not so different from other oversight techniques which also "interfere" with Executive functions. Moreover, unless Congress is to legislate in minute detail, it must either abdicate its legislative power or utilize some effective means of control, especially in areas where traditional oversight mechanisms have proved ineffective. As stated by Justice Jackson in his often-quoted concurring opinion in *Youngstown Sheet and Tube Co. v. Sawyer*, 343 U.S. 579, 635 (1952):

"The actual art of governing under our Constitution does not and cannot conform to judicial definitions of the power of any of its branches based on isolated clauses or even single Articles torn from context. While the Constitution diffuses power the better to secure liberty, it also contemplates that practice will integrate the dispersed powers into a workable government. It enjoins upon its branches separateness but interdependence, autonomy but reciprocity."

In summary, the question of the constitutionality of the Congressional veto device is complex and, in the absence of any specific judicial pronouncement, no definitive conclusion can be made regarding the validity of this mechanism as authorized by Sec. 206 of H.R. 200. Theoretical arguments aside, it may be stated that Congressional veto provisions have been enacted by the Congress for the last forty years and have been extended to the foreign affairs area. See H.R. Rep. No. 94-445, 94th Cong., 1st Sess. 58-60 (1975). This usage is perhaps encouraging to Congressional veto proponents.

II. VALIDITY OF H.R. 200 UNDER INTERNATIONAL LAW

A. Regional fishery treaties

Before considering the effect of H.R. 200 upon existing regional fishery treaties to which the United States is a party, it is instructive to note the well-settled rules of domestic law than 1) no constitutional violation occurs where federal legislation is inconsistent with a prior treaty, and 2) the measure later in time controls. As stated by the U.S. Supreme Court in *Whitney v. Robertson*, 124 U.S. 198 (1888):

"By the Constitution a treaty is placed on the same footing, and made of like obligation. Both are declared by that instrument to be the supreme law of the land, and no superior efficacy is given to either over the other. When the two relate to the same subject, the courts will always endeavor to construe them so as to give effect to both, if that can be done without violating the language of either; but if the two are inconsistent, the one last in date will control the other, provided always the stipulation of the treaty on the subject is self-executing. If the country with which the treaty is made is dissatisfied with the action of the legislative department, it may present its complaint to the executive head of the government, and take such other measures as it may deem essential for the protection of its interests. The courts can afford no redress. Whether the complaining nation has just cause of complaint, or our country was justified in its legislation, are not matters for judicial cognizance, 124 U.S. at 194."

The extent to which a court will attempt to reconcile statutes and treaties is reflected in the following excerpt from 74 *Am. Jur.* 2d, *Treaties*, sec. 16 (1974):

"... the purpose by statute to abrogate a treaty or any designated part of a treaty, or the purpose by treaty to supercede the whole or a part of an act of Congress, must not be lightly assumed, but must appear clearly and distinctly from the words used in the statute or in the treaty. It is the duty of the court, if possible, to find an interpretation of the statute which will involve no infraction of the treaty—no violation of the pledged faith of the government of the United States to the government of another country."

Repeals by implication are never favored, and none will be recognized unless the two expressions—treaty and statutes—are absolutely incompatible.

Although there is no violation of domestic constitutional law in the United States where treaties and federal statutes conflict, any resulting inconsistency may well be a violation of the nation's international legal obligations under the treaty. This point is emphasized by Hackworth, who states that "Where a treaty and an act of Congress are wholly inconsistent with each other and the two cannot be reconciled, the courts have held that the one later in point of time must prevail. While this is necessarily true as a matter of municipal law, it does not follow, as has sometimes been said, that a treaty is repealed or abrogated by a later inconsistent statute. The treaty still subsists as an international obligation although it may not be enforceable by the courts or administrative authorities." 5 Hackworth, *Digest of International Law* 185-86 (1943).

There would appear to be no conflict, however, between Title I of the proposed legislation and existing regional fishery treaties to which the United States is a party. In spite of a number of provisions in the bill which would seem to suggest a conflict [e.g. Sec. 2(a)(5), which cites the ineffectiveness of international agreements in halting the depletion of valuable coastal and anadromous species caused by overfishing, and Secs. 101 and 102 of Title 1, which establish an exclusive fishing zone of 200 miles over ocean areas and species subject to existing treaty arrangements], it appears that these treaties are to remain in force.

Evidentiary support for this conclusion may be seen in Sec. 202 of the bill, entitled "Treatment of Certain Existing International Fisheries Agreements," where it is provided that the Secretary of State is to renegotiate existing treaties in order to conform them to the legislation and is to submit annual reports to the Congress on the results of these negotiations [Secs 202(b) and (c)]. The Secretary's two-fold duty to "renegotiate" existing treaties (as opposed for example, to a duty to give notice of termination), and to make "annual reports" on the status of these negotiations, seems at odds with any conclusion that the treaties are to be superseded by the legislation. A reasonable interpretation of the statutory language suggests that (1) existing treaties are to be honored, that (2) they are also to be renegotiated to conform to the legislation, and that (3) Congress is to be informed annually on the status of the negotiations, perhaps for purposes of future termination if renegotiation is unsuccessful.

Further support for the above conclusion seems clear from the Report of the House Merchant Marine and Fisheries Committee which, after indicating that there is no authority for continued fishing by foreign vessels after July 1, 1976, except pursuant to the legislation, states that "Of course, treaties governing fishing within the extended fisheries zone would be honored subject to the renegotiation provisions of section 202(b)." H.R. Rep. No. 94-445, 94th Cong., 1st Sess. 51(1975). With regard to the renegotiation and report provisions of Sec. 202(b) and (c), the Report contains the following explanation:

"(b) Renegotiation of Treaties.—This subsection would require the Secretary of State, in consultation with the Secretary and the Secretary of the Department in which the Coast Guard is operating, immediately after the date of the enactment of this Act to take the appropriate steps to renegotiate all treaties (within the meaning of section 2 of Article II of the Constitution) which pertain to fishing within the fisheries zone or which pertain to species, stocks of fish, or fisheries with respect to which the United States may exercise management and conservation authority under this Act. The renegotiations would be designed to conform such treaties to the provisions and requirements of this Act.

"It is to be noted that section 2 of Article II of the Constitution gives to the President the power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur. There are a number of treaties which would be affected by this subsection, two of the more important are as follows: the International Convention for the Northwest Atlantic Fisheries and the International Convention for the High Seas Fisheries of the North Pacific Ocean.

"(c) Reports to Congress.—This subsection would require the Secretary of State to submit to the Congress a written report on or before May 15, 1976, and annually thereafter, on the results of the negotiations pertaining to the treaties covered by subsection (b).

"The Committee selected the date of May 15, 1976 for the first report on the results of the renegotiations since the new 200-mile fisheries zone would come into force and effect on July 1, 1976. The Committee is most hopeful that the Secre-

tary of State will act promptly and with vigor in renegotiating these agreements with the countries concerned so that the fisheries involved can receive the protection to which they are entitled." H.R. Rep. No. 94-445 *supra*, at 55-56.

B. Geneva Fisheries Convention

There would seem to be no inconsistency between Title I of H.R. 200 and the 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas [17 U.S.T. 138]. Technically, the validity of Title I, which establishes an exclusive fishery zone, should not be measured against the Geneva Fisheries Convention, which is concerned with the right of a coastal State to take unilateral conservation measures. This distinction is apparent from the following explanation by Bishop:

"It must of course, be recognized that the [Geneva Fisheries Convention] does not deal with the situation in which the coastal State wants not merely to regulate the fishery but also to reserve a high seas fishery exclusively for its own nationals. * * *

"... neither [the 1958 or 1960 Geneva Law of the Sea Conferences] achieved agreement on ... the problem of claims to exclusive fishing zones. Only time will tell whether future efforts will be more successful in dealing with claims to exclusive rights to fish. The Geneva Fishing Convention stands separately, neither dependent upon such agreement nor blocking solution of the problems of exclusive fishing claims. Of course, if there should eventually be worldwide agreement that the coastal state has exclusive fishing rights over broader areas of what are now high seas, the right of the coastal state unilaterally to establish conservation controls in these areas with regard for the terms of the Geneva Fishing Convention would doubtless follow. * * *" Bishop, "The 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas," 62 Columbia L. Rev. 1206, 1223-24 (1962).

Thus, the validity of the exclusive fishing zone established by Title I of the bill should be assessed by reference to other sources of international law, both conventional and customary, as is attempted in this memorandum *infra*, Part II(C). For present purposes, however, it seems correct to assume the validity of the exclusive fishery zone and merely inquire whether any unilateral conservation measures authorized by H.R. 200 outside this zone are violative of the Geneva Fisheries Convention.

Section 201(k) (1) of H.R. 200 declares that any fishery management plan prepared pursuant to section 304 or 305(d) which in whole or in part applies to any anadromous species in any area of the high seas seaward of the United States exclusive fishery zone is deemed a "unilateral measure of conservation" within Article 7 of the Geneva Fisheries Convention. Article 7(1) of the Convention authorizes such unilateral measures of conservation "appropriate to any stock of fish or other marine resources in any area of the high seas adjacent to [the coastal State's] territorial sea, provided that negotiations to that effect with the other States concerned have not led to an agreement within six months." Accordingly, H.R. 200 provides for a 6-month delay before fisheries management plans applicable to anadromous species seaward of the exclusive fishing zone go into effect. During that period, the Secretary of State is to enter into the required negotiations [Sec. 201(k) (2)].

While there would appear to be no inconsistency between Sec. 201(k) (2) and Article 7(1) of the Convention, it should be noted that Article 7(2) of the latter imposes additional standards against which the proposed legislation must be assessed.

Article 7(2) (a) of the Convention provides, for example, that there must be a need for urgent application of the unilateral conservation measures in light of the existing knowledge of the fishery. Section 2 of H.R. 200 seems to fulfill this requirement in its findings *inter alia*, of a dramatic increase of foreign fishing with the concomitant depletion of anadromous species to the point where the survival of the fisheries is threatened, of a threat to the social and economic fabric of local coastal regions caused by the depletion of fishery resources at an ever-increasing rate, and of the ineffectiveness of international agreements in halting the depletion of valuable anadromous species caused by overfishing with the attendant danger of irreversible depletion of these species.

Article 7(2) (b) of the Convention specifies that unilateral measures of conservation adopted by the coastal State must be based on appropriate scientific findings. The proposed legislation seems consistent with this requirement, as Section 302(c) (1) provides that the management of fisheries is to be consistent

with certain national fisheries management standards which include "the best scientific biological information available." Moreover, in his review of fishery management plans submitted by the Regional Fishery Councils, the Secretary of Commerce is to determine that these plans are consistent with the national fishery management standards [Section 305(c) (8)].

Finally, Article 7(2)(c) of the Convention provides that the unilateral measures of conservation adopted by the coastal State must not discriminate in form or in fact against foreign fishermen. Under Sec. 304(b) (1) (B), the Regional Fishery Councils, in preparing a fishery management plan, are authorized to specify conditions and limitations governing fishing by any vessel documented under United States law or registered under State law, or by any other vessel (i.e. foreign vessels), which the Council believes should be implemented to carry out conservation measures in waters seaward of the exclusive fisheries zone in the case of anadromous species. Specific plan requirements prepared by the Councils may include the adoption of licenses, permits, or fees as a condition to engaging in any fishery or other activity regulated by the Act. The amount of fees may vary between domestic and foreign fishermen or between different categories of foreign fishermen [Sec. 304(b) (3) (E)].

It is arguable that the fee variance sanctioned by Sec. 304(b) (3) (E) between domestic and foreign fishermen for anadromous species seaward of the exclusive fishery zone violates the non-discrimination provision of Article 7(2) (C) of the Convention. It might be further contended that the fee variance authorized by Sec. 304(b) (3) (E) between different categories of foreign fishermen is also suspect under Article 7(2)(c) of the Convention. Here, however, perhaps it could be argued that the validity vel non of discrimination between different categories of foreign fishermen depends on the basis of the categorization. That is, a fee variance based on categories associated with different anadromous species might be permissible if uniformly applied, but a variance reflecting political enmity toward a particular foreign nation or nations might be a violation.

C. Geneva High Seas Convention and Customary International Law

As noted *supra*, the validity of the exclusive fishing zone established by Title I of H.R. 200 may be properly assessed by reference to sources of international law other than the Geneva Fisheries Convention. It was earlier concluded that Title I, with support in the Committee Report, seems to preserve regional fishery treaties subject, of course, to the renegotiation and annual reporting obligations of the Secretary of State. It may also be noted that international fishery agreements (other than treaties) to which the United States is a party would also be honored, but can not be extended or renewed except pursuant to the legislation, See Sec. 202(a) and H.R. Rept. No. 94-445, 94th Cong., 1st Sess. 51 (1975). It remains to be considered, therefore, whether the validity of the United States exclusive fishery zone created by Title I is valid by reference to the 1958 Geneva Convention on the High Seas [13 U.S.T. 2312] or to any applicable customary rules of international law which may have evolved since 1958.

Article 2 of the Geneva High Seas Convention provides that the high seas (i.e. all parts of the sea that are not included within the territorial or internal waters of a State) are open to all nations and that no State may validly purport to subject any part of them to its sovereignty. The Article further provides that both coastal and noncoastal States are entitled to exercise certain freedoms on the high seas, including specifically the freedom of fishing. Finally, Article 2 specifies that high seas freedoms are to be exercised by all States with reasonable regard to the interests of other States in their exercise of the freedoms of the high seas.

The recent decision by the International Court of Justice in the *Fisheries Jurisdiction Case (United Kingdom v. Iceland)*, Merits Judgment of July 25, 1974, [1974] I.C.J. Rep. 3, held that Iceland's exclusive fishery zone of 50 miles was a violation of Article 2 of the Geneva High Seas Convention, as applied to the United Kingdom's historic rights and special interests in the disputed ocean area. In particular, Iceland's extension of its fishery zone to 50 miles was not in keeping with its duty of reasonable regard for the established interests of the United Kingdom within the zone.

It should be noted that the International Court did not rule that the Icelandic extension to 50 miles was *ipso jure* invalid under international law, but that the extension was non-opposable to the United Kingdom's historic fishing rights in the area. Thus, the decision may be viewed as limited in scope and, by virtue of

Article 59 of the I.C.J. Statute, as binding only between the parties and with respect to this particular case. These limiting factors notwithstanding, and in recognition of the significance of opinions of the International Court as declaratory of existing international law, it is arguable that the United States fisheries zone extension to 200 miles would be non-opposable under Article 2 of the Convention to any State having established rights in the area. Presumably, such an argument would be made from those States which do not enjoy rights under existing treaties or agreements with the United States, as those rights seem to have been preserved by the legislation as noted *supra*.

Section 201(d) of H.R. 200 appears to take account of the established rights of foreign nations in the extended fisheries zone by directing that consideration be given to "any traditional or historical patterns of fishing" by applicant foreign nations. It should be noted, however, that if the United States makes a determination adverse to the alleged traditional fishing rights of another State, and that determination is not in accord with international law, then H.R. 200 as applied may be invalid with respect to the particular foreign State or States affected. In this regard, the International Court's reference to the United Kingdom's historic interest in the disputed ocean area off the Icelandic coast seems instructive:

63. In this case, the Applicant has pointed out that its vessels have been fishing in Icelandic waters for centuries and they have done so in a manner comparable with their present activities for upwards of 50 years. Published statistics indicate that from 1920 onwards, fishing of demersal species by United Kingdom vessels in the disputed area has taken place on a continuous basis from year to year, and that, except for the period of the Second World War, the total catch of those vessels has been remarkably steady. Similar statistics indicate that the waters in question constitute the most important of the Applicant's distant-water fishing grounds for demersal species.

64. The Applicant further states that in view of the present situation of fisheries in the North Atlantic, which has demanded the establishment of agreed catch-limitations of cod and haddock in various areas, it would not be possible for the fishing effort of United Kingdom vessels displaced from the Icelandic area to be diverted at economic levels to other fishing grounds in the North Atlantic. Given the lack of alternative fishing opportunity, it is further contended, the exclusion of British fishing vessels from the Icelandic area would have very serious adverse consequences, with immediate results for the affected vessels and with damage extending over a wide range of supporting and related industries. It is pointed out in particular that wide-spread unemployment would be caused among all sections of the British fishing industry and in ancillary industries and that certain ports—Hull, Grimsby and Fleetwood—specially reliant on fishing in the Icelandic area, would be seriously affected. Merits, at 28.

Commenting upon the Court's pronouncements concerning historic interests, one observer has expressed the view that "Here the Court's judgment may be useful, since it emphasizes that for an historic interest to be shown in a fishery, the fishery must have been exploited fairly continuously over a lengthy period of time (decades rather than years) and the fishing must be of some economic importance to the State claiming the historic interest." Churchill, "The Fisheries Jurisdiction Cases: The Contribution of the International Court of Justice to the Debate on Coastal States' Fisheries Rights," 24 *Int. & Comp. L.Q.* 82, 91-92 (Jan. 1975).

The question which remains unanswered after the Fisheries Jurisdiction Case is the *ipso jure* validity of an exclusive fishery zone beyond the presently accepted minimum limit of 12 miles, a minimum which the International Court recognized as valid under customary international law as it had evolved in recent years. While the Court's decision is narrowly confined, three were Separate Concurring and Dissenting Opinions in the case which did speak to this precise issue. In an Appendix to this memorandum are excerpted portions of these Opinions reflecting the divergent views of the Justices on this question. The essence of these arguments, as they might be applied to Title I of H.R. 200, can be summarized as follows:

Arguments that an exclusive fishery zone beyond 12 miles is invalid *ipso jure* under international law: (a) such an extension violates the freedom of fishing guaranteed under Article 2 of the Geneva High Seas Convention; (b) even if the underlying premise of Article 2 of the Convention is no longer valid today (*viz.*, that fishery resources are inexhaustible), the provision is still in force and effect; (c) claims to broad areas of fishery jurisdiction beyond 12 miles

have not established a new rule of customary international law, as these claims have been met by protests from States affected; (d) proposals at the Third Law of the Sea Conference favoring broad coastal State jurisdiction in an economic zone of 200 miles are not existing law.

Arguments that an exclusive fishery zone beyond 12 miles is not invalid *ipso jure* under international law: (a) Given the variety of claims relating to fishery zones, it is clear that State practice does not confirm the existence of a maximum breadth for an exclusive fishery zone; (b) although a number of important maritime and distant water fishing States have protested broad claims to fishery zones, most States have not protested; (c) in view of the unsettled nature of the law in this area, State proposals at the Third Law of the Sea Conference are relevant as evidencing developing norms of customary international law; (d) the proposals at the Third Law of the Sea Conference relating to the 200 mile economic zone stress coastal State "sovereign rights" for purposes of exploiting, conserving, and managing the renewable natural resources of the seabed and superjacent waters.

While these are arguments which could be used by both proponents and opponents of Title I of H.R. 200, it should be noted that among those judges which considered the *ipso jure* validity of a claim to an exclusive fishing zone beyond 12 miles, four dissenting judges would have held against the validity of such a claim, and, as correctly noted by a recent commentary, "the general conclusion of the judges forming the majority . . . is that there is at present no rule of customary international law which prohibits a claim to an exclusive fishing zone in excess of 12 miles, nor is there a rule of customary international law which would give such a claim validity *erga omnes*. The validity of the claim will depend on all the surrounding circumstances, in particular the degree to which the claim has been accepted or acquiesced in. None of the judges are very happy with this situation, but they express the hope that the Third United Nations Conference on the Law of the Sea, or failing that, the development of customary international law, will lead to more certain rules in this area of law." Churchill *supra*, at 91-92.

CONCLUSION

On the basis of the foregoing analysis, the following conclusions would appear to be established by this memorandum:

1. There is no constitutional violation created by the federal regulation of fisheries within the territorial sea and beyond, given the judicial recognition of paramount federal interests in this area. Constitutional objections might be made to the Congressional veto provision of H.R. 200 in Sec. 206, but the relatively long-term usage of this device plus the lack of judicial precedents on point make the success of such a challenge uncertain.

2. There is no constitutional violation where federal legislation conflicts with a prior treaty or treaties. Domestically, the measure later in time controls and the courts will endeavor to construe treaties and legislation so as to give effect to both. Where, however, an inconsistency exists between a federal statute and a prior treaty, the United States may be subject to a claim that the Nation has violated its international legal obligations.

3. There is no conflict between existing regional fishery treaties to which the United States is a party and Title I of H.R. 200. The language of the bill and the Report of the House Merchant Marine and Fisheries Committee indicate that existing treaties are to be honored, subject to the Secretary of State's responsibility to renegotiate the treaties and make annual reports to the Congress on the results of such renegotiation.

4. Title I of H.R. 200, which establishes an exclusive fishery zone of 200 miles, is not in conflict with the 1953 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas, as this Convention concerns the adoption of unilateral measures of conservation by coastal States, not the establishment of exclusive fishery zones. Section 304(b)(3)(E) of H.R. 200, which authorizes a fee variance between domestic and foreign fishermen, and between different categories of foreign fishermen, regarding anadromous species seaward of the exclusive fishing zone, is suspect under the nondiscrimination requirement of Article 7(2)(C) of the Geneva Fisheries Convention.

5. The validity of the United States exclusive fishery zone established by Title I of H.R. 200 is unclear when assessed against the high seas freedom of fishing,

recognized in Article 2 of the 1958 Geneva Convention on the High Seas, and emerging customary rules of international law, which arguably sanction claims beyond 12 miles. Respectable arguments can be maintained for and against the validity of such a zone, as is evidenced by the recent International Court of Justice opinions in the Fisheries Jurisdiction Case. The limited scope of this decision militates against its general application to the proposed United States exclusive fishery zone, but the decision could be invoked by foreign nations adversely affected who assert established rights in ocean areas within the zone.

JOINT SEPARATE OPINION OF JUDGES FORSTER, BENGZON, JIMÉNEZ DE ARÉCHAGA,
NAGENDRA SINGH, AND RUDA

1. What has made it possible for us to concur in the reasoning of the Court and to subscribe to its decision is that, while the Judgment declares the Icelandic extension of its fisheries jurisdiction non-opposable to the Applicant's historic rights, it does not declare, as requested by the Applicant, that such an extension is without foundation in international law and invalid *erga omnes*. In refraining from pronouncing upon the Applicant's first submission and in reaching instead a decision of non-opposability to the United Kingdom of the Icelandic regulations, the Judgment is based on legal grounds which are specifically confined to the circumstances and special characteristics of the present case and is not based on the Applicant's main legal contention, namely, that a customary rule of international law exists today imposing a general prohibition on extensions by States of their exclusive fisheries jurisdiction beyond 12 nautical miles from their baselines.

2. In our view, to reach the conclusion that there is at present a general rule of customary law establishing for coastal States an obligatory maximum fishery limit of 12 miles would not have been well founded. There is not today an international usage to that effect sufficiently widespread and uniform as to constitute, within the meaning of Article 38, paragraph 1(b), of the Court's Statute, "evidence of a general practice accepted as law".

It is an indisputable fact that it has not been possible for States, despite the efforts made at successive codification conferences on the law of the sea, to reach an agreement on a rule of conventional law fixing the maximum breadth of the territorial sea nor the maximum distance seaward beyond which States are not allowed to extend unilaterally their fisheries jurisdiction. The deliberations of the 1958 Geneva Conference on the Law of the Sea revealed this failure which has been recorded in its resolution VIII of 27 April 1958. The General Assembly of the United Nations consequently laid down that these two subjects would constitute the agenda for the 1960 Conference on the Law of the Sea, which also failed to reach agreement on a text. The establishment of a rule on these two questions thus remains among the topics on the agenda of the current Third United Nations Conference on the Law of the Sea.

[8] . . . to recognize the possibility that States might claim without risk of challenge or objection an exclusive fisheries zone of 12 miles cannot by any sense of logic necessarily lead to the conclusion contended for by the Applicant, namely, that such a figure constitutes in the present state of maritime international law an obligatory maximum limit and that a State going beyond such a limit commits an unlawful act, which is invalid *erga omnes*. This contention of the Applicant is an answer to a different question, which must be examined separately.

9. That question is as follows: is there an existing rule of customary law which forbids States to extend their fisheries jurisdiction beyond 12 miles? In order to reply in the affirmative to this question, it would be necessary to be satisfied that such a rule meets the conditions required for the birth of an international custom.

10. It is a fact that a continually increasing number of States have made claims to extend and have effectively extended their fisheries jurisdiction beyond 12 miles. While such a trend was initiated in Latin America, it has been lately followed not only in that part of the world, but in other regions as well. A number of countries in Africa and Asia have also adopted a similar action. The total number adopting that position may now be estimated to be between 30 to 35 coastal States, depending on the interpretation to be given to certain national laws or decrees.

11. While those claims have generally given rise to protests or objections by a number of important maritime and distant-water fishing States, and in this respect they cannot be described as being "generally accepted", a majority of States have not filed similar protests, and quite a number have, on the contrary, made public pronouncements or formal proposals which would appear to be inconsistent with the making of such protests.

12. In this respect attention must be drawn to declarations made, or proposals filed by a number of States in relation to or in preparation for the Third Conference on the Law of the Sea. It is true that, as the Court's Judgment indicates, the proposals and preparatory documents made in the aforesaid content are *de lege ferenda*. However, it is not possible in our view to brush aside entirely these pronouncements of States and consider them devoid of all legal significance. If the law relating to fisheries constituted a subject on which there were clear indications of what precisely is the rule of international law in existence, it may then have been possible to disregard altogether the legal significance of certain proposals, declarations or statements which advocate changes or improvements in a system of law which is considered to be unjust or inadequate. But this is not the situation. There is at the moment great uncertainty as to the existing customary law on account of the conflicting and discordant practice of States. Once the uncertainty of such a practice is admitted, the impact of the aforesaid official pronouncements, declarations and proposals must undoubtedly have an unsettling effect on the crystallization of a still evolving customary law on the subject. Furthermore, the law on fishery limits has always been and must by its very essence be a compromise between the claims and counter-claims of coastal and distant-water fishing States. On a subject where practice is contradictory and lacks precision, is it possible and reasonable to discard entirely as irrelevant the evidence of what States are prepared to claim and to acquiesce in, as gathered from the positions taken by them in view of or in preparation for a conference for the codification and progressive development of the law on the subject?

13. The least that can be said, therefore, is that such declarations and statements and the written proposals submitted by representatives of States are of significance to determine the views of those States as to the law on fisheries jurisdictions and their *opinio iuris* on a subject regulated by customary law. A number of pronouncements of States in the aforesaid circumstances reveals that while the fundamental principle of freedom of fishing in the high seas is not challenged as such, a large number of coastal States contest or deny that such a principle applies automatically and without exception to adjacent waters in all parts of the world as soon as the 12-mile limit is reached. Such an attitude is not only based on the clear consideration that two conferences have failed to agree on a maximum limit but also because of additional factors which have emerged in the intervening period between the Second and Third United Nations Conferences. For example, it is contended that the 12-mile fishery limit ensures, in fact, a clear privilege and a distinct advantage to the few States equipped to undertake distant-water fishing, thus widening the gulf between developed and developing States; a second fact is that technological advances and the pressure on food supplies resulting from the population explosion have caused a serious danger of depletion of living resources in the vicinity of the coasts of many countries. In this respect, economic studies on fisheries have shown that the principle of open and unrestricted access to coastal waters inevitably results in physical and economic waste, since there is no incentive for restraint in the interest of future returns; anything left in adjacent waters for tomorrow may be taken by others today. While the better-equipped States can freely move their fleets to other grounds as soon as the fishing operations become uneconomical, the coastal States, with less mobile fleets, maintain the greatest interest in ensuring that the resources near their own coasts are not depleted.

14. While granting that proposals and preparatory documents are *de lege ferenda* and made with the purpose of reaching future agreements on the basis of concessions and compromise the following inferences could, however, be legitimately drawn from their existence:

(a) States submitting proposals for a 200-mile economic zone, for instance, which includes control and regulation of fishery resources in that area, would be in a somewhat inconsistent position if they opposed or protested against claims of other States for a similar extension. . . .

(b) It would not seem justified to count States which have agreed to or made such declarations and proposals as figuring in the group of States con-

curing in the establishment of an alleged practice in favour of a 12-mile maximum obligatory limit.

15. If, to the 30 or 35 States which have already extended their fisheries jurisdiction beyond 12 miles, there is added the further number of 20 to 25 States which have taken the attitudes described in the preceding paragraph, the conclusion would be that today, more than half the maritime States are on record as not supporting in fact and by their conduct the alleged maximum obligatory 12-mile rule. In these circumstances, the limited State practice confined to some 24 maritime countries cited by the Applicant in favour of such a rule cannot be considered to meet the requirement of generality demanded by Article 38 of the Court's Statute.

16. Another essential requirement for the practice of States to acquire the status of customary law is that such State practice must be common, consistent and concordant. Thus contradiction in the practice of States or inconsistent conduct, particularly emanating from these very States which are said to be following or establishing the custom, would prevent the emergence of a rule of customary law.

17. Certain States, whose conduct is invoked as showing the existence of the 12-mile maximum rule, have not hesitated to protect their own fishing interests beyond that limit, when they felt that it was required for the benefit of their nationals by the existence of important fisheries in waters adjacent to their coasts. Various methods have been utilized to achieve that result, but the variety of methods should not obscure the essential fact. It could be observed for instance, that the United States and the USSR have lately carried out this form of protection not unilaterally but through bilateral agreements *inter se* and with other State.¹ However, these Powers began by adopting unilateral measures which created for the States whose nationals were fishing in adjacent waters the need to enter into fishery agreements if they wished that their nationals could continue their fishing activities in those grounds. Once the need for an agreement was thus created, it was not difficult for these Powers, because of their possibilities in offering various countervailing advantages, to reach agreements which assured them of a preferential or even an exclusive position in those fishing grounds in which they had special interests in areas adjacent to their shores well beyond the 12 miles.

This demonstrates the fact that even for States which cannot claim a special dependence on their fisheries for their livelihood or economic development, 12 miles may not be sufficient. It would not seem fair or equitable to postulate on the basis of such divergent conduct a rule of law which would deny the power to protect much more vital fishing interests to countries lacking the same possibilities of offering attractive terms by way of compensation for abstaining from fishing in their adjacent waters.

20. Consequently, it is not possible to find today in the practice of States what the Court described in the *Asylum* case as "a constant and uniform usage, accepted as law" (*I.C.J. Reports 1950*, p. 277). The alleged 12-mile limit maximum obligatory rule does not fulfill, "an indispensable requirement," namely, "that within the period in question, short though it might be, State practice, including that of States whose interests are specially affected, should have been both extensive and virtually uniform" (*North Sea Continental Shelf cases, I.C.J. Reports 1969*, p. 43).

21. It could therefore be concluded that there is at present a situation of uncertainty as to the existence of a customary rule prescribing a maximum limit

¹ International Convention (with annex and Protocol) for the High Seas Fisheries of the North Pacific Ocean signed on 9 May 1952 by the United States of America, Canada and Japan (*United Nations Treaty Series*, Vol. 203, p. 65); Convention concerning the High Seas Fisheries of the North-West Pacific Ocean signed on 14 May 1956 by Japan and the Union of Soviet Socialist Republics (*AJIL*, 1959, p. 763); Agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on Certain Fishery Problems in the North-Eastern Part of the Pacific Ocean off the Coast of the United States of America, signed on 13 February 1967 (*United Nations Treaty Series*, Vol. 633, p. 157); Agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on Certain Fishery Problems on the High Seas in the Western Areas of the Middle Atlantic Ocean, signed on 25 November 1967 (*United Nations Treaty Series*, Vol. 701, p. 162); Agreements effected by Exchange of Notes signed on 23 December 1968 between the United States and Japan on Certain Fisheries off the United States Coast and Salmon Fisheries (*TIAS of the United States*, No. 6600).

of a State's fisheries jurisdiction. No firm rule could be deduced from State practice as being sufficiently general and uniform to be accepted as a rule of customary law fixing the maximum extent of the coastal State's jurisdiction with regard to fisheries. This does not mean that there is a complete "lacuna" in the law which would authorize any claim or make it impossible to decide concrete disputes. In the present case, for instance, we have been able to concur in a judgment based on two concepts which we fully support: the preferential rights of the coastal State and the rights of a State where a part of its population and industry have a long established economic dependence on the same fishery resources.

DISSENTING OPINION OF JUDGE GROS

[Translation]

I consider that Iceland's claim to establish an exclusive fishing zone over the superjacent waters of the continental shelf is contrary to the rules of international law, but the reasoning which leads me to that opinion, and my analysis of the dispute itself, are different from what is contained in the Judgment, from both the reasoning and the decision of the Court.

* * * * *

I have made it clear for my own part that I regarded the extension from 12 to 50 sea miles as contrary to general international law, and therefore non-opposable to any State fishing in the waters adjacent to the 12-mile limit around Iceland. The Court stated in its Judgment in the *North Sea Continental Shelf* cases that: "The coastal State has no jurisdiction over the superjacent waters." (*I.C.J. Reports 1969*, p. 37, para. 59.) The claim of Iceland is expressly in relation to those waters. As to the lawfulness of an encroachment into sea areas which all States fishing in the area, without exception regarded as forming part of the high seas on 1 September 1972, it is unarguable that it was lawful; Articles 1 and 2 of the Convention on the High Seas and Article 24 of the Convention on the Territorial Sea are provisions which are in force, and since the only argument relied on to exclude them is that they are outdated, no reply on this point is needed; the calling of a third codifying Conference in July 1974 amply demonstrates that certain procedures, and agreement, are necessary to replace codifying texts. Until different texts have been regularly adopted, the law of the sea is recorded in the texts in force.

It has also been said that a claim extending beyond 12 miles is not *ipso jure* unlawful, because there have been many claims of this kind; but by conceding that these claims are also not *ipso jure* lawful one admits that acceptance by others is necessary to make them opposable. What could a claim which was disputed by all the States concerned in a given legal situation be, if it were not unlawful? But since all States fishing in the Icelandic waters in question are opposed to the extension what is the reason for not stating this and drawing the necessary conclusion?

There is no escaping the fact that if the States which oppose the extension cannot do so on the basis of a rule of international law, their opposition is ineffective, and this must be said; but if they can base their opposition on such a rule it is equally necessary not to hesitate to say that. It is the accumulation and the constancy of the opposition which should have obliged the Court to make a general pronouncement in the present case.

DISSENTING OPINION OF JUDGE PETRÉN

[Translation]

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As there does not exist between the two States any convention on which the Icelandic decision could be founded, Iceland could seek its justification only in customary international law. The first two United Nations Conferences on the law of the Sea amply demonstrated that no such general rule of customary international law existed in 1958-1960. If there is any general customary rule that Iceland can rely on, it must have come into being since 1960. Let us therefore consider what evolution may have taken place.

It is true that an increasing number of coastal States, whether by proclaiming the extension of their territorial waters or by claiming fishery zones beyond those waters, have claimed an exclusive fisheries jurisdiction extending up to the 50-mile or even the 200-mile limit. Nevertheless, even if one confines one's attention to the zone lying between the 12-mile and the 50-mile limits, the number of States that have claimed exclusive fisheries jurisdiction therein cannot be considered sufficiently large to justify the conclusion that a new rule of law, generally accepted as valid by the international community, is being applied. Furthermore, the States whose interests are threatened by these claims have constantly protested. Hence another element which is necessary to the formation of a new rule of customary law is missing, namely its acceptance by those States whose interests it affects.

DISSENTING OPINION OF JUDGE ONYEAMA

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16. In the forefront of the submissions of the United Kingdom in the Application and in the Memorial on the merits was a request for a decision by the Court that there is no foundation in international law for the claim by Iceland to be entitled to extend its fisheries jurisdiction by establishing a zone of exclusive fisheries jurisdiction extending to 50 nautical miles. This, it seems to me, was the gravamen of the dispute, but the Court now declines to decide it. The decision appears to approach the dispute, not from the point of view of the conflict of the extension with any conventions or with customary international law, but from the point of view that the extension was an exercise of preferential rights which did not give due regard to established rights. This was not the dispute between the Parties and it forms no part of the claim made by Iceland.

17. I am of the opinion that Article 2 of the High Seas Convention and Article 3 of the Continental Shelf Convention² provide a basis in positive international law for deciding that the extension has no basis in international law; and the Court, having found that the concept of the fishery zone, and the extension of that fishery zone up to a 12-mile limit from baselines, appears now to be generally accepted as customary international law should have drawn the conclusion that the unilateral extension to a 50-mile limit by Iceland with which this case is concerned is contrary to international law, and stated that conclusion in the operative clause of the Judgment.

Mr. WHITEHURST. Mr. Chairman, I rise in support of H.R. 200, which would extend the U.S. exclusive fisheries zone from 12 to 200 miles. The problem facing our domestic fishing industry is straightforward. Our privately owned commercial fishing fleets and boats are in direct competition with the much larger, government-subsidized foreign fishing fleets that are quite literally sweeping the ocean floor clean of all forms of marine life without regard for even the most elemental conservation measures. The Russians and other Soviet bloc countries have moved massive, sophisticated fishing fleets into the Atlantic, frequently operating within sight of our coastline from Maine to the Florida coast. The Cubans are building a large, modern fishing fleet which will soon move in to the Gulf of Mexico, and the Mexican Government is now debating extension of its fishing jurisdiction out to 200 miles off its Pacific and gulf coast. Off our Pacific coast fishing vessels from Japan and South Korea have already destroyed several species of fish. [Sec. 2]

Because of this overwhelming and concentrated attack on our valuable offshore marine resources, we are rapidly running out of fish. The cod and haddock have been overfished to the point of commercial extinction, just within the last 20 years. The yellowtail flounder, which

² "The coastal State has no jurisdiction over the superjacent waters" [of the continental shelf] (*I.C.J. Reports 1969*, p. 37, para. 59).

is now the primary commercial fish stock in New England, has been so overfished that the National Marine Fisheries Service now indicates the overall catch may have to be reduced by 50 percent in some parts of the ocean. U.S. industry sources have made it quite clear that if such a reduction is ordered, foreign overfishing will continue with our domestic fishermen quite possibly the only group adhering to a fish catch reduction. Our industry sources also have indicated that such a reduction in the yellowtail flounder catch could well mean the end of the east coast domestic fishing industry as we know it today, an end that could come within our lifetime. Without regulation and a sound program of conservation, our fishing industry is in very serious trouble. **[Sec. 2]**

The Department of State's position on this issue is that the United States cannot take unilateral action in declaring a U.S. 200-mile fish conservation zone when the International Law of the Sea Conference is scheduled to debate this question when it convenes in New York City next spring. This rationale would be valid if it were not for the fact that even the State Department estimates it could take another 5 to 10 years for the 150 invited nations to agree on and implement a new treaty on fishing jurisdiction. However, the Studds-Magnuson bill is an interim measure that would be superceded by any agreement reached by the Law of the Sea Conference and subsequently becoming international law. **[Sec. 401]**

I share with Senator Magnuson and Congressman Studds the strong conviction that if we are to have any fish left for future generations, we must begin to protect them now, this year, to reverse the decline of our fish stocks and our fishing industry. **[Sec. 2]** I am pleased to say that this view is also shared by numerous groups, organizations and individuals from all parts of the country.

The 15-member Atlantic States Marine Fisheries Commission, the National Coalition for Marine Conservation, the Organized Fishermen of Florida, the Emergency Committee to Save America's Marine Resources of New Jersey, the 200-member Salmon Trollers Marketing Association of California, the Humboldt Fishermen's Marketing Association of Eureka, California, the Friends of the Earth, and many others support this legislation.

I urge my colleagues to pass H.R. 200 this afternoon, while we still have an industry and resource to protect.

Mr. RINALDO. Mr. Chairman, I rise today in support of H.R. 200, legislation to establish a fisheries conservation zone off U.S. shores and to extend U.S. fishery jurisdiction from 12 to 200 miles. I urge my colleagues to vote in favor of this measure.

The House of Representatives this year will not consider more important legislation than H.R. 200. The last two decades have seen a precipitate decline in the U.S. fishing industry caused almost solely by the intrusion of foreign fishing fleets. On the Atlantic coast alone, domestic take of fish now equals only 50 percent, down from 92.9 percent in 1960. If this trend is allowed to continue, we may well see the extinction of U.S. fishing as a viable industry. **[Sec. 2]**

Let us look at the facts.

In the period since 1938, world landings have tripled; during the same period, U.S. landings rose in the aggregate only slightly, from

4.3 billion pounds in 1938 to 4.7 billion in 1973. What is more important, this 4.7 billion figure represents a decline from the 5.3 billion level reached in the 1960's at a time when demand for fishery products in the United States steadily rose. U.S. consumption of fishery products has nearly doubled over the past two decades. This increase in domestic demand, coupled with decreasing U.S. landings, have led to a tripling of U.S. imports between 1959 and 1973—from 1.75 billion pounds to 5.5 billion pounds. In 1950, the United States imported only 23.4 percent of its seafood; in 1974, imports were over 60 percent.

In short, the overall record is one of increasing dependence of the United States on the products of other nations' fisheries. In fish and fisheries products, our 1972 adverse balance of payments equaled \$1.3 billion—up 318 percent from 1960.

It is an accepted fact that the U.S. fishing industry is in need of protection. No one contends that current conditions should be allowed to persist; the main disagreement centers about the means of providing that protection. [Sec. 2]

The alternative to the legislation we are now considering—an alternative supported by the White House and the Department of State—is that the United States should wait for an international, multilateral agreement to be approved by the United Nations Conference on the Law of the Sea. No one would welcome such an agreement more than I. But I take vehement exception to the false optimism of those who have implied that such an agreement awaits us in the near future.

I direct my colleagues' attention to the committee report accompanying H.R. 200:

If previous law of the sea treaties are any benchmark, an effective treaty may be several years off. Three of the four conventions signed in 1958 entered into force between 4 and 6 years after signature in Geneva. The fourth, the Convention on Fishing and Conservation of the Living Resources of the High Seas, entered into force only in 1966, fully 8 years after it was signed.

The report states further:

Presently, the United States is party to well over a score of international fishing agreements and periodically engages in bilateral and multilateral negotiations with foreign nations to restructure these treaties and to frame new ones which seek to conserve fish resources. Nearly all of the stocks of fish considered to be depleted or threatened with depletion are subject to these international agreements.

This is the background against which the House must view H.R. 200 and the Law of the Sea Conference. As one who participated in the 1975 Convention on the Law of the Sea, I was a witness to the disagreement and disorder characteristic of that convention. And I can assure my colleagues that an agreement from that body in the near future is unlikely, and an agreement from the 1976 talks in New York is virtually impossible without the impetus provided by enactment of this bill.

Let there be no doubt, Mr. Chairman, if the House shelves H.R. 200 now, we will not be asking U.S. fishermen to wait until March of 1976. [Sec. 104] We will be asking them to wait another 2, 4, or 6 years.

The second serious objection of those opposed to this legislation is that a unilateral declaration of 200-mile sovereignty will be met with retaliation by other foreign nations; that it will not be recognized by foreign nations who fish off our shores—and I was informed this

morning by the Department of Defense that the Soviet Union will not recognize such a declaration—and that it will hamper final agreement of a multilateral accord by the Law of the Sea Conference.

In my judgment, enactment of H.R. 200 will not discourage the negotiations at the Law of the Sea Conference; it will make them show a little movement and work harder to reach a consensus [Sec. 2(c) (5)].

As for the other objections to H.R. 200, I have not dismissed them out-of-hand, and I do not do so now. They are serious points the House must consider as it weighs this legislation. And I have been prepared to sustain these objections if proponents of a multilateral agreement would give me a compromise proposal. Yet, none has been forthcoming; and as a member of the Fisheries Subcommittee which reported this legislation, I have heard the almost unanimous support of the public for a 200-mile fishing limit. If we are to protect U.S. fishing interests and yet refrain from acting on a 200-mile fishing limit bill, we have the right to demand from the executive branch a feasible alternative.

Mr. Chairman, we have been given no such alternative, and a prudent assessment of the Law of the Sea Conference does not provide us with any immediate hope. H.R. 200 must be enacted.

I urge my colleagues to join with me in adopting this important and necessary piece of legislation.

Mr. YOUNG of Alaska. Mr. Chairman, fellow colleagues, today is a great day in American history and a great day for the State of Alaska, because we are going to enact a piece of legislation which is long overdue.

The Members may wonder what I have brought this box into the Chamber for. They will find it in the lobby a little later. It contains a net which the Japanese utilized to catch our salmon in a way that everyone of our scientists and biologists say we should not follow. It is a net made of monofilament. It never destroys itself. It is a 2-inch mesh, and this one net alone, if the Members can imagine, when found upon the beach after it had been cut loose contained one caribou, numerous ducks and over 100 salmon of all sizes.

The Members may ask how in the world that caribou got into the net. We do not know how old that net is, but we do know that it is an illegal method of catching fish. This is what the State Department has been consulting with Japan and allowing them to use.

I can tell the Members that the State of Alaska is tired of being ravished. We have the greatest fishing waters in the world, and yet we have seen our stocks decline to a point where many of them may not be able to be rehabilitated. I heard objections made in the debate that this bill would do irreparable damage to the negotiations which are going to take place in New York and Caracas, but let me remind the Members that Mexico's President came out with the same basic proposal, and we have been told that 13 other countries in Latin America are going to do it also, because they too recognize that we are dealing with a resource that is renewable if we take care of it. If we do not take care of it, the sea will not be able to feed this Nation or this world.

To give the Members an example, bottom fisheries off the coast of Alaska took over \$500 million worth of fish, and while they did that the United States imported from that same country \$250 million worth of fish which were our fish to begin with.

What we are saying in this bill is that it is time for Americans to speak up for Americans. It is time for Americans to take care of renewable resources that are along our coast, otherwise those foreign vessels would not be 12 miles off. [Sec. 2]

I can say to the Members that if this bill becomes law, the law of the Sea Conference in New York and possibly Caracas will finalize the negotiations they have been dragging their feet on. [Sec. 2(c)(5)]

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Chairman, does the gentleman agree it has been the consistent position of the United States over recent years that the action of Peru, Brazil, and other Latin American countries, in unilaterally extending their claims of fishing rights to 200 miles, was a violation of international law?

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Maine (Mr. Cohen).

Mr. COHEN. Brazil, as a matter of fact, declared a 200-mile limit. Not only did our State Department recognize it, but they asked for an appropriation of a quarter of a million dollars for last year to reimburse the Brazilian Government to pay for the supervision of that.

Mr. FRASER. Mr. Chairman, the gentleman is in error. We did not recognize their right to assert that kind of position.

Mr. COHEN. Mr. Chairman, if the gentleman will yield, I might add that on the committee last year, when the State Department did come before us to testify on another matter, this question was asked: How can you impose a 200-mile limit for one country and a 100- or 200-mile limit for Brazil?

The answer came back: We did not impose a 200-mile limit for Brazil. We came for the right to preserve and support a species.

And that is all we are asking for, the right to preserve our species up to 200 miles. [Sec. 101]

Mr. YOUNG of Alaska. In regard to our renewable species, as we should have been doing in the past, we will be doing in the future.

Mr. ANDERSON of California. Mr. Chairman, there has been a misguided notion going around here that amendments adopted by the Merchant Marine and Fisheries Committee to H.R. 200 were suitable to the U.S. tuna industry, and therefore, they are supportive of this bill.

This, absolutely, is not true. The retaliatory effects of this bill will destroy this valuable industry.

Many people have been led to believe that because H.R. 200 was amended to exclude highly migratory species [Sec. 103], in other words, tuna, that our tuna fishermen have nothing to worry about when they seek to fish within 200 miles of another nation's shores.

Nothing could be further from the truth. Only 6 percent of tuna caught off our coasts by U.S.-flag tuna vessels is caught within 200 miles. The rest—94 percent—is caught off foreign shores.

This amendment was adopted with the hope other nations would follow our course.

Well, they are following our unilateral action, but that is about it. For instance, Mexico has proposed an exclusive 200-mile economic zone, including tuna.

Mr. Chairman, trying to convince our distinguished colleagues that our tuna fishermen are protected by this bill, is a cruel hoax.

All of us here should realize that if this bill is enacted, the tuna industry—its 30,000 workers, its processing plants valued at over \$800 million, and its vessels, which represent over 35 percent of the total value of the entire U.S. fishing fleet—will suffer an economic setback it will never recover from.

Mr. Chairman, there has also been an impression created that labor is supportive of H.R. 200.

I would like to read a recent telegram which was sent to most of our west coast colleagues by Mr. Harry Bridges, president of the International Longshoremen's & Warehousemen's Union, and by Mr. William Chester, the international vice president:

ILWU opposes any action by the House of Representatives to establish a 200-mile limit as proposed by H.R. 200. This bill will destroy the U.S. tuna industry, which includes the entire membership of the ILWU Fishermen's & Allied Workers Union and would severely damage the income of longshoremen on the West Coast who handle tuna imports. Passage of H.R. 200 would cut the negotiating ability of the U.S. delegation to the Law of the Sea Conference to be held in New York next March. Passage of H.R. 200 will contribute to the failure of the March conference because it will promote and trigger action by other countries to make unilateral declarations of sovereignty and be the excuse for countries to reject international cooperation and stimulate division and strife among the peoples of the world.

The ILWU represents the west coast of continental United States, Alaska, and Hawaii; has 50,000 members; and is one of the most powerful unions on the west coast. It also handles as much fish and fish products, perhaps, as any other west coast union.

In addition, representatives of several other labor unions appeared before our Merchant Marine and Fisheries Subcommittee when we held hearings on the west coast. They were all opposed to H.R. 200.

Mr. Chairman, in discussing this legislation before us here today I would like to say that, in essence, we are considering two very real and fundamental questions.

First. Are we going to live in a world where two-thirds of its surface is peacefully governed by international law and cooperation?

Or will we live in a world wherein its vast oceans are ruled by chaos and confrontation, due to jurisdictional disputes caused by unilateral action?

Mr. Chairman, the law of the sea negotiations must continue. By acting unilaterally in fisheries jurisdiction, as those who advocate H.R. 200 propose, we would be inviting much broader unilateral claims by other nations, thus paralyzing our efforts in attaining a comprehensive Law of the Sea Treaty, and would harm our own overall oceans interests.

For example, the Governments of Mexico and Costa Rica are watching our action—they have already proposed an extension of their jurisdiction. It is quite obvious that they are waiting for us to make the next move. They are not claiming a 200-mile fishery zone. To the contrary, they are claiming all. I repeat, all resources within 200 nautical miles of their shores.

Surely other nations, citing the United States as the example, will pursue this course of unilateralism. Some, we are told, will prohibit our naval forces from venturing within 200 miles of their coasts. Some

may halt the navigation of our commercial tankers transporting valuable hydrocarbons to our country—if not halt them, then most assuredly impose outrageous fees on these ships which would make passage impractical, if not impossible.

I am sure you have thought about the confrontation and violence that will occur—not only in our 200-mile zone—but in the other 200 mile zones that will be set up—once we, the United States, made unilateral claims respectable.

The Mediterranean will be all but closed up—the Caribbean will be a puzzle even to consider. What is it—about 90 miles from Key West, Florida to Cuba?

Some nations, I am told, might even claim an exclusive 200 mile zone of sovereignty, to include control of overflight. As Chairman of the House Aviation Subcommittee, the prospect of danger inherent in this type of claim is indeed frightening.

Only through international agreement can stability conquer strife in the ocean. Mr. Chairman, to many of us, the Law of the Sea negotiations have moved too slowly. This is true. But what we must remember is that we are embarking on what could be a milestone in the history of the world, perhaps, as important as the creation of the Congress of Vienna, and, our own Constitutional Convention—events where the efforts and cooperation of the many took precedent over individualist self-centered interests.

The Law of the Sea Treaty being worked on, would extend international sovereignty to the oceans of the world, which, incidentally, is two-thirds of the Earth's surface. Over 140 nations are involved in this effort. These are over 140 nations with diverse interests. All are trying to negotiate a single treaty which will benefit all humankind.

We must be deliberate in this effort, and we must be patient. And, above all, we must not put the future of this effort in jeopardy.

Furthermore, Mr. Chairman, I want to point out that, if we were to enact H.R. 200, there would be confrontation with nations who will not recognize our unilateral claims. And, believe me Mr. Chairman, I know what confrontation is. My own tuna fishermen have been literally beaten and imprisoned in foreign countries whose unilateral claims we did not and still do not recognize. Their catches were confiscated, their boats seized, their lives threatened. Are we now going to tell these people, our people, that these foreign nations did the right thing? Will we condone violence on the high seas?

Mr. Chairman, this bill will destroy the U.S. tuna industry. It will destroy the jobs of thousands of fishermen, processors and canners. And if we are worried about foreign fishing efforts increasing the price of fish in this country, just wait and see how much tuna will cost when we have to import all of it from Japan or some other foreign country. This high protein source of food is responsible for 25 percent of the fishery food products consumed in the United States—this industry is indeed one of the most significant fisheries in the United States, and should not be sacrificed along without a stake in the law of the sea negotiations by this unilateral action.

Finally, Mr. Chairman, I ask this great body to examine the other consequences of such a unilateral move. The cost—over \$140 million for the first year alone, and as I mentioned before, our vital security and economic interests.

We have much to lose, and little to gain by enacting this bill. Thus, I ask for a "no" vote on H.R. 200.

Mr. RUPPE. Mr. Chairman, I yield 5 minutes to the gentleman from Maine (Mr. Emery).

(Mr. EMERY asked and was given permission to revise and extend his remarks.)

Mr. EMERY. Mr. Chairman, there is no piece of legislation that will be before this Congress this session more important to the State of Maine than this bill.

I have lived on the coast of Maine all my life. I have grown up with fishermen and fishing families. From the time I was born I have seen the Maine fishing industry shrink and decline. Anyone can visit my hometown today and see vacant buildings that canneries once occupied. One can visit with folks who have been a part of the fishing industry and who have made their living from fishing. These people are now watching their industry die. One can now see 45- and 50-year-old draggers rusting as they serve their last days at sea—a shameful sight to the once proud fishing industry.

What has caused this? Many things, but primarily this has been the reason: During the last 15 years or so the Georges Banks off the coast of Maine have been invaded by an armada of foreign vessels, vessels from Japan, from the Soviet Union, from Poland, from East Germany, and from several other countries. These foreign fishermen have modern vessels and modern equipment. They use nets with a weave so fine that practically nothing but the water itself can escape.

They catch all the fish—the edible fish and the fish that we rely on to breed. Some of these fish are essential in the food chain so that the fish we use commercially can exist and thrive.

In fact, the depletion has been so severe that some biologists have told us that the population of haddock, among other commercial varieties, is now so small that they may never again be able to reproduce in sufficient quantities to make them of significant economic interest again. This is sad.

We are suffering from shortages of a great many things in the world today. Oil is one of them, but another is food. We have the ability on the Georges Banks, of Alaska and elsewhere off the coast of the United States to feed not only ourselves but to feed a very large portion of the world if only this resource can be properly managed, if only we can learn to manage those resources in such a way that they can reproduce and provide a source of protein and profit for the people who depend on them [Sec. 2]

We cannot wait any longer for international actions. We have to institute some kind of protection for our fishing industry now, whether it is at a Law of the Sea Conference or whether it is through our own actions here in Congress, because if we do not, this is going to be a moot issue. The fish are not going to be there to protect. That, I think, would be a very, very sad occurrence. [Sec. 2]

The problem of the Law of the Sea Conference has been that it is hung up on issues not directly related to fishing. There are only 20 or 25 nations throughout the world that are directly concerned with fishing, and until those nations can agree on a policy that will promote conservation and management of our resources, then the Law of Sea Conference will produce nothing of value to protect the fishing re-

sources. However, another major problem has been the Third World countries interested in the deep-sea mining issue. I believe that deep-sea mining considerations should remain entirely away from the question of protecting the fishing industry. Unfortunately it is not, and negotiations are hung up on that point. Until that question can be resolved, there will certainly be no significant progress with respect to fishing at the Law of the Sea Conference.

Mr. COHEN. Mr. Chairman, I want to commend the gentleman in the well for his efforts on the committee in seeing to it that this bill has now been brought to the full House.

I think we could stand here all day and cite many instances about how the fishing industry, at least along our coastline, is dying.

The most important statistic is that we have become the leading importer of fish in the world today. If we are going to reverse that trend, we have to take strong action, which I believe is in order. [Sec. 2]

If we can support Brazil in trying to preserve its species up to 200 miles offshore, it is unconscionable that we cannot do the same in protecting our own fishing industry. We should not have a double standard.

Mr. Chairman, the fishing industry in Maine—one of my State's oldest and most valuable industries—is dying.

It is dying chiefly because of excessive foreign fishing currently taking place on the Gulf of Maine. It may be difficult for those of my colleagues who come from inland States to understand the extent of the plight of Maine fishermen. There are only 10,000 licensed commercial fishermen in my State, but the value of their annual catch to Maine is about \$200 million after processing and marketing. This makes the fishing industry the third largest industry in the State. Over 7,000 families derive their incomes directly from fishing. In most of the towns and villages on Maine's 2,500 miles of coastline, the local economy is based largely on the condition of the fishing industry.

But today, the little fleets of Maine trawlers and gill-netters find themselves locked in an economic war in which they are badly outgunned by vast flotillas of subsidized foreign fishing vessels. In Maine's adjacent waters, more than 20 nations search for and harvest thousands of tons of fish. Many of the foreign vessels involved in this harvest actually contain facilities in which the catch can be processed and packaged for the foreign—and the American—marketplace. These vessels, often owned and operated by foreign governments, move together in fleets and concentrate on small ocean areas in which stocks are found to be plentiful. In the darkness of night, these fleets appear as huge cities of light, but they have cast a pall over the Maine fishing industry that only action by this body can lift.

In order to catch the same amount harvested a decade ago, Maine fishermen must often remain at sea twice or three times as long as they did then. At times, they return to port with little or no fish at all. Maine's traditional fishing grounds are being fished out. They are being fished out by marauding foreign fleets which harvest the product of American coastal waters with no thought to conservation of our precious, but perishable fish resources.

In 1960, Maine fishermen landed 92 million pounds of groundfish—cod, haddock, hake, pollock, and ocean perch. In 1973, 13 years later,

the amount landed was 41 million pounds, or less than half of 1960 amount. Similarly, in 1960, the Maine catch of sea herring—sardines—totaled 152 million pounds. In 1973, the amount was 37 million pounds—merely one-fifth of the 1960 total. The sardine canning industry in Maine has been decimated. My State—which once supplied two-thirds of the national sardine catch—now produces less than one-third. Two-thirds now are imported from foreign nations.

Mr. Chairman, the House must approve H.R. 200. The legislation is commonly called the 200-mile limit bill, but I submit its official title—the Marine Fisheries Conservation Act—more accurately describes the bill and its importance to American fishermen, especially those in Maine. **[Sec. 2]**

Without this bill and the new controls it will impose on foreign fishing fleets, the Maine fishing industry will not be able to survive. Hundreds, perhaps thousands, more Maine fishermen will be forced out of business. The American consumer will be forced to rely even more than he does now on foreign imports to satisfy his demand for fish. And an important source of protein-rich food—America's fisheries—may be destroyed forever. **[Sec. 2]**

Mr. Chairman, Maine's fishing industry cannot wait any longer for the protection the 200-mile limit will afford. They cannot wait to see what—if any—progress is made by international negotiators at the Law of the Sea Conference next spring. They have waited long enough. What we need now is action—action to save our fishermen. I urge the House to approve this legislation; our fishing industry deserves nothing less. **[Sec. 2]**

Mr. EMERY. Mr. Chairman. I thank the gentleman from Maine (Mr. Cohen) for his remarks, and I concur with them entirely.

In conclusion, I would like to correct some common misconceptions that I have heard mentioned on occasion.

First of all, we are not proposing a 200-mile territorial limit. **[Secs. 2(c) (1) ; 2(c) (2) ; 101]** We are not declaring U.S. sovereignty beyond the present 3-mile limit. **[Sec. 2(c) (1) ; 2(c) (2)]** We are merely talking about the right to protect our fishing industry—and that alone. **[Secs. 2(c) (1) ; 2(c) (2) ; 101]**

Second, there has been some concern that in some areas such as the Bering Straits, that the 200-mile limit would encroach on the territory of another nation. It would not. These limits would simply meet—in other words, simply “split the difference.” **[Sec. 101]**

Finally, the proposed fishing limit can be enforced. Air surveillance, and cooperation between the Coast Guard and the Navy, would be sufficient to observe the 200-mile zone. **[Sec. 311]** The additional cost would be minimal. **[Sec. 406]**

The issue we face today is the very existence of our fishing industry and our ability to conserve and manage our marine resources for the benefit of the entire world **[Secs. 2 ; 101 ; 102]**, Mr. Chairman, I urge the passage of H.R. 200.

Mr. GUDR. Mr. Chairman, I am opposed to this bill.

But none of us who are opponents are claiming that this legislation establishes a 200-mile territorial sea. One can get all of the lawyers, pro and con, to debate forever the question of legal rights beyond our shores. Pure and simple, however, the passage of this legislation is

more important as to its political impact around the world rather than to its legal effect. This bill is going to be interpreted as an opportunity for other nations such as Mexico and Costa Rica, which the gentleman from California mentioned, to go ahead and make further claims on the Continental Shelf. It will lead to more crisis problems around the world, such as in the case of the *Pueblo* and *Mayaguez*.

Those fisheries which are declining are a problem, but we are just adding to our problems if we pass this legislation.

Unilateral extensions of fishery jurisdictions in the past have led to or encouraged more extreme jurisdictional claims by other nations.

And since we are identified as a power and looked to as a leader in the world, our actions are catalyst for other nations to follow suit.

Indeed, only 10 days ago agreement was reached in Montreal on a new multilateral agreement on the North Atlantic fisheries which moves in this direction. The agreement sets the allowable catch for 1975 at 850,000 tons to be reduced to 650,000 tons next year, a 23-percent reduction. At the same time the U.S. share of that catch will increase from 211,000 tons to 230,000 tons next year. This agreement continues a trend toward greater conservation in the North Atlantic region. The 1973 authorized catch was 1.1 million tons, meaning that this latest agreement will produce a 43.7-percent reduction from that level. Though this agreement involves only one ocean area, it includes most of the major fishing nations, and it serves as powerful evidence of the merits of a multilateral approach to the problem.

On the other hand, the taking of unilateral action on our part has a host of implications for our future oceans policy as well as for the course of negotiations at the Law of the Sea Conference, and most of them, as I have indicated, are negative.

In the first place, we have historically committed ourselves to multilateral decisionmaking on matters like this, and, in particular reference to oceans issues, unilateral actions have generally been bad precedents. A good example is the case of certain Latin American countries, notably Peru and Ecuador, which claim 200-mile territorial seas and have seized American fishing boats "trespassing" in those waters. Ironically, the precedent the Latin American nations cite is the claim of President Truman in Proclamation 2667 of September 28, 1945, which asserted U.S. jurisdiction and control over the natural resources of the contiguous continental shelf. The Truman proclamation did not mention specific limits and did not stake out territorial claims, but it nonetheless served as a rationale for the South American countries to stake out the 200-mile limit.

Passage of this bill would almost certainly be interpreted by other nations as justification for existing exaggerated claims or as license to assert new unilateral claims, many of which will be more extensive than our own and by no means in our interest. One could say, of course, that rationally our passage of H.R. 200 should not have that effect, that the limited nature of its claim as well as its subordination to any treaty eventually ratified [Sec. 401] should not provide any exaggerated incentives to anyone else. The fact is, however, that we are not dealing with other countries disposed to act rationally and calmly; rather we are faced with those who have already made policy decision—or who would clearly like to—and are looking for any excuse to

make them stick. Argentina, Brazil, Peru, Ecuador, Chile, Nicaragua, Panama, and Uruguay, to mention a few, have already claimed a 200-mile territorial sea and as in the Truman case, unilateral action on our part, however limited, will surely lead to exaggerated claims on the part of others.

LEVERAGE

Second, we must remember that the Law of the Sea negotiations are not yet complete, and we retain a formal role in them. Final agreement in those negotiations will depend on numerous concessions by the various parties in order to reach compromise in the many areas under discussion. In order to achieve an acceptable compromise from our point of view, we must have something to concede—in return for other concessions—that we can afford. Passage of this bill could well destroy some of our needed leverage at Geneva next year by surrendering in advance something we should be holding out in order to secure concessions from others. Important topics, such as exploitation of the deep seabeds are far from settled and, in that case, the character of the International Authority to be created and the constraints to be imposed on deep sea exploitation are vitally important to us. Whether that part of the agreement is acceptable depends on what concessions we can wring from the underdeveloped nations—and we must offer something in return. Passage of this bill will surely hamstring those efforts by destroying that leverage.

NATIONAL SECURITY

Whatever form the Law of the Sea Treaty finally takes, it will also have a significant effect on our national security interests. Decisions on territorial waters, unimpeded passage through straits, submerged transit, to mention a few, are all crucial, and all are more likely to be made in ways consistent with our interests through multilateral action rather than unilateral initiatives on our part.

PRINCIPLE OF MULTILATERALISM

There is also an issue of principle at stake which I touched on earlier. Throughout the postwar period this Nation has firmly indicated its support for the United Nations and for multilateral solutions to international problems. We have frequently rejected unilateral efforts to solve problems, particularly in respect to the Law of the Sea, as when we rejected exaggerated territorial waters claims, and we cannot with consistency initiate a practice we have condemned in others, nor can we with logic expect other nations to honor our declarations if we ignore theirs.

ENFORCEMENT

This latter point raises the troublesome issue of enforcement. [Sec. 331] Attempts to calculate the costs of adequate enforcement [Secs. 311; 406] of this bill make two assumptions from the beginning—only consenting nations are considered and only spot enforcement is contemplated. That is, no one has realistically suggested that we try to patrol the full fisheries zone claimed, but rather we conduct spot checks

in likely places at appropriate times. State Department estimates of the equipment needed for enforcement include 6 high endurance cutters, 4 medium range search aircraft, and 10 shipboard helicopters at a cost of \$63.2 million for initial acquisition or reactivation, plus \$47.2 million for annual operations. Thus we are talking about more than \$110 million initially and almost \$50 million annually for spot enforcement against only those nations who consent to our claims. A number of important nations, notably the Soviet Union and Japan, can be expected to resist both a unilateral declaration and our attempts to enforce it, [Sec. 311] which will include boarding, inspection, arrest, and seizure, thus complicating our efforts, adding significantly to the costs, and creating major risk of an international incident.

MIGRATORY SPECIES

As our colleagues from the west coast can explain, strictly enforced 200-miles limits pose real problems for tuna fishermen. While this bill reserves migratory species for international management, [Secs. 2(b) (2) ; (103)] we must again face the likelihood that unilateral action on our part will produce similar action on the part of others who will not make that reservation. Already our tuna fishing off the western coast of South America has become embroiled in those nations' unilateral claims and our rejection of them. Would not passing this bill remove our rationale for such rejection and thereby compound our difficulties?

ALTERNATIVES

In addition to the damage this bill would do if it is passed, there are alternative means of achieving our conservation objectives that render passage of this measure unnecessary. The administration has already begun planning a similar approach using bilateral agreements rather than unilateral action as its basis. This negotiation plan should result in:

First. Establishment of an effective conservation regime;

Second. Creation of preferential harvesting rights for U.S. fishermen to the full limits of their harvesting capacity, with the surplus allocated among foreign fishermen, thereby substantially reducing foreign catches;

Third. Implementation of a standardized system for collection of fisheries data, with information contributed from both foreign and domestic fishermen;

Fourth. Implementation of an allocation system which will substantially reduce foreign catches to allow U.S. fishermen on a phased basis to increase their catch to the full limits of their harvesting capacity, with the surplus allocated among foreign fishermen, I have already discussed the success of the recent multilateral agreement in Montreal;

Fifth. Introduction of more effective enforcement procedures;

Sixth. Implementation of satisfactory arrangements to resolve gear conflicts, and ensure adequate foreign compensation to U.S. fishermen in cases of negligence by foreign fishermen. With 11 bilateral fisheries agreements due for renegotiation next year, as well as regular meetings of six multilateral fisheries commissions scheduled, ample

opportunities exist to achieve our conservation and fisheries objectives through multilateral channels rather than through unilateral action and all the burdens and complications that term implies.

CONCLUSION

In short then, this bill takes us down a dangerous road, one filled with profound dangers for our oceans policy, our national security and our own economic interests. No matter how one defines or interprets this bill, no matter how many mitigating details are added to it, it is still a unilateral bill that will be perceived by the rest of the world as making unilateral claims for the United States at the expense of other fishing nations. No matter that those claims may be just. No matter that they institute sound conservation practices. No matter that the Law of the Sea Treaty will likely reach the same point within a year.

Passage of this bill will violate our own longstanding principles, and it will launch us on a course of action we have rejected and condemned in others. From a pragmatic point of view, the whole rationale for this bill depends on the willingness of other nations to accept our actions and cooperate, and there is no doubt in my mind that that is not going to happen. Our unilateral action is going to provide an excuse for other nations to go further, and we will have good cause to regret what we have done. For all of these reasons I oppose the passage of this bill.

Mrs. SULLIVAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair. Mr. Smith of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 200) to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes, had come to no resolution thereon.

Mrs. SULLIVAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 200) to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Missouri (Mrs. Sullivan).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 200, with Mr. Smith of Iowa in the chair.

The Clerk read the title of the bill.

Mr. DOWNING of Virginia. Mr. Chairman, I wish to urge once again your support for legislative action to extend fisheries jurisdiction for purposes of vital conservation of fishing stocks, of value domestically and to the world's population. I cannot speak too forcefully of the need for strong action by this Congress without further delay. [Sec. 2]

By now it must seem there can be little said or argued on the subject that has not already been said. The only evidence every passing day without legislative action, brings is of continued adverse impact of overfishing on a number of invaluable commercial species and hence on our domestic fishing industry which is dependent on them.

I have been privileged to serve my constituency and, I hope, the broader public for 17 years in Congress thus far. During that time, I have served on the Committee on Merchant Marine and Fisheries and have followed very closely the issues of concern to this committee and to the welfare of our fisheries and our fishing industry in particular. Some of my colleagues may recall that I sponsored on the House side, the legislation which the 89th Congress passed—Public Law 89-658—by voice vote, I believe, which established our present contiguous fisheries zone of 9 miles beyond our territorial sea. This was in 1966 when we were first becoming aware of the tremendous impact the rapidly increasing fishing effort of foreign fishing fleets was having on the stocks of traditional importance to our domestic fishermen. At the time, we hoped this action would respond adequately to the problem, but do so in a limited and considered fashion cognizant of various international considerations and of the interests of our own distant water fishermen. I recall when we were considering that legislation, that then Assistant Secretary of the Interior, Stanley Cain, pointed out in the Departments official comment on my bill that the 9-mile extension of the fisheries jurisdiction of the United States would in most cases be of relatively little value in solving conservation problems.

A significant proportion of the fish stocks which now support U.S. coastal fisheries move freely from coastal waters to offshore waters. A conservation scheme which admitted of conservation measures in only a part of the area inhabited by these stocks and left exploitations of these stocks in other waters unregulated, would be a half measure at best, and would amount to vain regulation of American fishermen. Sadly, it seems Dr. Cain's comments have proved all too accurate. We should have gone further then and we would not have the problems we have now.

Extending to the 12-mile limit gave the U.S. fishing industry an additional 120,000 square miles of sole and exclusive fishing rights. We thought this was adequate, but we were wrong. Nobody envisioned that within a few years huge, modernized, government-owned foreign fleets would invade our bountiful waters and literally vacuum the resources out of the sea. According to a recent report of the National Oceanic and Atmospheric Administration in April of this year, 574 foreign fishing and fishing support vessels were reported operating off the coasts of the United States.

I have flown over these fleets on several occasions and it is a frightening thing to see. A typical foreign fleet will lie between 12 and 15 miles offshore and will extend more than a hundred miles with modern effi-

cient "mother ships" or processing vessels, located 20 to 25 miles apart, each being served by several dozen rather delapidated trawlers. The trawlers compete with each other over the size of their daily catch. The mesh of their nets is much smaller than ours which allows them to capture practically all of the edible and commercial resources. No conservation methods are honored.

Last year, I chaired field hearings of the Subcommittee on Fisheries and Wildlife Conservation and the Environment in Hampton, Va. Just as was true in the other nine cities and States of this country in which this subcommittee held hearings on this issue last year, we heard further evidence of the need for unilateral American action to protect and conserve diminishing species of commercially important fish and to better protect the interests of our fishermen. [Sec. 2]

For example, James O. Douglas, Jr., commissioner of marine resources for the Commonwealth of Virginia, testified that 1973 landings of river herrings were but 37 percent of the previous 10-year average; of scup but 16 percent; sea bass only 57 percent; and butterfish only 15 percent. Mr. Douglas noted that all four of these fish, important to coastal commercial fishermen, are largely harvested beyond the present fisheries zone of 12 miles. This contrasted starkly with comparable statistics for fluke whose 1973 landings were near the 10-year average; this is because the majority of fluke landed in Virginia are harvested within the contiguous fisheries zone. Other compelling evidence was provided by the eminent Dr. William Hargis, director of the Virginia Institute of Marine Science and chairman, National Advisory Committee on Oceans and Atmosphere, and in Dr. Hargis' words:

In 1965 before the foreign fleets moved into the middle Atlantic bight—the area extending from Cape Hatteras to Cape Cod and called Virginia Sea by Capt. John Smith—the Virginia fisheries landed 25,000 tons of scup, black sea bass, flounder, and river herrings. Now, after the heavy onslaught of fishing by foreign fleets totaling up to 225 vessels, the aggregate catch of these species in 1973 was only 5,000 tons. This, despite agreements with the Soviet Union, Poland and Romania addressed specifically to protection of these species. Something better is needed. American fishermen deserve better. The American offshore fishery cannot long survive if conditions are not improved. The world community, confronted with an even worsening protein deficiency, cannot afford the wastage caused by overfishing.

Mr. Chairman, I submit there is abundant evidence before us of the damage occurring daily under the present law and practice, and of the improvement which can be expected by acting to extend jurisdiction and hence rational, scientific management capability to coastal and anadromous fish stocks.

We are constantly warned that unilateral action by the United States with respect to extending fisheries jurisdiction would jeopardize the on-going law of the sea negotiations and hence would not be in the best interests of the country. We have heard, and patiently, the advice and judgment of the State Department and our delegate to the Law of the Sea Conference on this question. They advanced the very same arguments when we extended the fishing limit to 12 miles, back in 1966. Frankly, I am not persuaded by their pleas. The Law of the Sea Conference is very important and it probably offers the best long-run prospects for a lasting, stable resolution of a number of perplexing and complex international issues concerning oceans and marine jurisdic-

tions—issues of which fisheries is one of the most important. But let us be realistic. The U.N. Law of the Sea Conference has completed three sessions and is commencing its fourth session in New York in March. Conference President Amerasinghe of Sri Lanka had publicly stated that he had little hope of drafting a new treaty governing the use of the sea at the last Geneva session—and he was proved right. In fact, he had indicated that the 148 participating nations may require as many as three more sessions in order to obtain a signed treaty in “1975 or 1976.”

Well, 1975 is already here and 1976 is just around the corner and there has been little, if any, progress. Any international agreement appears to be years away. Any treaty that may eventually be signed by participating nations’ representatives must then be ratified by some minimum number of them before entering into force. Ratifications of international agreements can easily require 4 to 10 years, or more, before a sufficient number of nations have acted. The situation “in the water” is far too serious for responsible people and responsible nations to defer action on that kind of time scale.

I fervently believe we must move aggressively on both fronts—international negotiation and national action—at the same time we will not be alone in that course. In January last, Norway passed an enabling act giving the Government authority to enforce specified no-trawling zones along the coast of northern Norway. And of course over 40 nations already have unilaterally extended claims to territorial seas beyond 3 miles and/or fisheries zones beyond 12 miles. Just last week Iceland extended its fishing zone to 200 miles and last Tuesday Mexico extended its zone to 200 miles. There is much to be gained and very much to be lost by U.S. failure to act immediately. **[Sec. 2]**

This bill, H.R. 200, and others like it have a powerful appeal in providing authority for effective national action on an interim basis. Whenever a new law of the sea is negotiated, signed, and ratified by enough nations to enter into force, our interim action automatically would defer to such new international law. **[Sec. 401]** In fact, U.S. response to ultimate law of the sea progress would be much advantaged by action on legislation at this time because such legislation automatically can constitute enacting legislation for that hoped for new law of the sea.

For all these reasons, I hope this House will act and act speedily by passing this interim legislation extending our fisheries jurisdiction as set out in H.R. 200.

Mr. LENT. Mr. Chairman and colleagues, every foreign observer of the American system of government has noted what short memories we Americans have. When we consider this bill during our Bicentennial, we seem to have forgotten that our forebears were harvesting the sea long before they reaped broad plains of wheat, and that when it came time to negotiate an end of our War of Independence with the British 194 years ago, one of the most pressing issues at the Peace Conference was American access to the North Atlantic fisheries. We insisted on our historical rights, and we maintained them.

I rise to join with my colleagues in asserting that here and now is the time to remember—and to act. On a clear day on Long Island, I can look from the beach, out on the Atlantic and see Polish and Russian

trawlers vacuuming up the sea. My colleague from Alaska sees their treasure under the sea being carried off to Koshiro and Vladivostok instead of to Kodiak and Juneau.

American housewives are now paying premium prices for the 60 percent of our fish consumed that is imported, prices that are higher than for prime cuts of steak, but these fish were in many cases caught just 13 miles from our coastline.

We must act to protect our dwindling seafood supply. We cannot talk about providing marine protein to the world's hungry if we do not assure ourselves reasonable access to protect and harvest our own fisheries. [Sec. 2] Our tank of conservation is meaningless unless we have something to conserve and a clear fishing zone off our shores in which to conserve it. [Sec. 101]

We are told by the opponents of this legislation that we must await action by the fourth Law of the Sea Conference in March, and that our unilateral action here today will prejudice these negotiations. I do not agree. This law does not even take effect until July 1, 1976 [Sec. 104], after the next conference. And the bill provides that any treaty resulting from the Law of the Sea Conference ratified by the Senate will supersede this law. [Sec. 401] And it is not unlikely that our action in Congress will go a long way toward promoting general agreement on a 200-mile fishing zone.

There is tremendous interest throughout the land in this bill. [Sec. 2] Much of it is generated by commercial fishermen, consumers, and game fishermen. They are each suffering, in their own way, the ill effects of our inaction, while foreign fishing fleets have been permitted to continue their mammoth harvesting operations that have seriously—perhaps irreparably—depleted a significant number of fish species.

We cannot ask our citizens to wait for even further exhaustion of our fisheries stocks—particularly when our reason for delay is grounded on the illusory hope for an international agreement that has thus far eluded three international conferences.

Mr. Chairman, we have often troubled ourselves over our national defense perimeters, and at times in our past, they have been extended to the Asian mainland, to the Anatolian plateau, to the Arctic Circle, and to the shores of the Baltic. I suggest that, like charity, our economic defense perimeter ought to begin at home. I urge passage of H.R. 200.

Mr. GILMAN. Mr. Chairman, I rise in opposition to the enactment of H.R. 200, the Marine Fisheries Conservation Act of 1975.

While I am opposed to the passage of H.R. 200 at this time, I am not unsympathetic to the plight of our fishing industry and have in the past been critical of the callous operations of foreign fleets fishing with sophisticated equipment off our coastline depleting our fisheries stocks. It is because of the awareness of this problem that I have long maintained the need for a controlled economic zone extending outward from our territorial waters.

Most of us support the concept of a controlled fishing zone off of our shores. So too does the administration support that proposition. That concept is not at issue today. What is at issue is how best and how to most effectively bring about such control and conservation.

In seeking the most effective method for bringing about this off-shore regulation and the need to protect our diminishing fish stocks,

we must not lose sight of other ocean interests of vital concern to the United States that would be jeopardized by any unilateral action by our Nation.

H.R. 200 presents us with a choice in how best to proceed in developing a U.S. oceans policy. Are we to opt for the rule of law by negotiating a comprehensive international agreement or do we strike out alone, adopting this measure and thereby subjecting ourselves to economic retribution and conflict?

Mr. Chairman, the Law of the Sea Conference, involving 150 nations, is on the threshold of bringing about a workable international agreement regulating coastal fishing. Therefore, let us not act too hastily today, thereby jeopardizing the prospects for achieving a successful comprehensive Law of the Sea Treaty in the negotiations now in progress and the painstaking work of the Law of the Sea Conference. If we adopt a 200-mile law, it would lead other nations to claim unilaterally a 200-mile territorial sea and other competing jurisdictional claims to the oceans damaging to our vital interests in naval mobility or the movement of energy supplies. Passage of this bill would lead to a chain reaction of claim and counterclaim with the further potential for protest and confrontation. Instead of providing a rational, peaceful order for the oceans that a multilateral agreement could produce, the measure before the House would provide instead an impetus for increased unilateralism and continued disorder and crisis on the oceans.

The Law of the Sea Conference is in the process of bringing about a comprehensive restructuring of the law of the oceans. A moving force for such change arises out of the desire of coastal states to protect their fisheries. There is virtual consensus at the Law of the Seas Conference that coastal states shall have exclusive sovereign rights over fish within a 200-mile economic zone with adequate provision for conservation and management. Accordingly, it is reasonably certain that our natural fisheries objectives can be best achieved through the framework of international law and not as part of a unilateral action that would subject us to confrontation and sanctions for violation of international law.

Should H.R. 200 pass, we will also be faced with serious questions of enforcement [Sec. 311] both in terms of costs of that enforcement [Sec. 311; 406] and relations with those nations fishing off our coasts, most notably Japan and the U.S.S.R. A conservative estimate for the first year cost of this legislation, not including the potential economic deficit due to a loss of distant water fisheries, would be approximately \$140 million over present funding.

We can best achieve the objectives of this legislation by patience and refraining from voting for this type of unilateral action—action that could jeopardize major security, economic, and political interests of vital concern to the United States.

Accordingly, I urge my colleagues to oppose this bill.

MR. VAN DEERLIN. Mr. Chairman, the committee's work on this bill has been orderly, efficient and fair. Moreover the staff report in this bill is one of the most factual I have ever seen prepared on a controversial piece of legislation.

Other speakers have addressed the House on what they see as an economic interest, and an economic peril to their communities—a feeling with which anyone can sympathize.

For my home community of San Diego and southern California in general, this is not just an economic issue. It is an emotional issue as well. The tuna fishing fleet grew in my hometown from the very small beginnings in the twenties by men who went out against the sea—most of them sons of Italy and Portugal—in small craft going for distances of 3,000 to 5,000 miles in pursuit of a fish which goes from one place to another, highly migratory. This is an industry which had built itself up to a multimillion dollar industry by the mid-thirties, a triumph of self enterprise and free enterprise, unassisted by Government in anyway. It is an industry which in wartime turned over its entire fleet to the U.S. Navy. These vessels, being fast and particularly well refrigerated, were useful to the Navy in supply missions across the far Pacific. This industry, in the postwar years, experienced some dreadful competition from Japan, which enjoyed great assistance from the United States because of efforts that this country was properly making to restore Japan's postwar economy. Finally, in the fifties this industry began to be put upon by Latin nations to the south, trying to keep them 200 miles at sea, seizing their vessels in defiance of all international law, charging huge license fees and imposing outrageous fines. Ecuador's most recent demand was \$30,000 for a 40-day fishing fee. Here is an industry which has been swimming upstream all its life.

It is also an industry which provides some of the finest citizens in my area. One of the happy sights before Christmas each year is to see these vessels sailing back in time to celebrate the holiest of holy days with their families after months-long voyages. This is a people, this is an industry very important to us in southern California.

I ask you not to tell these nations to the south that they were right in imposing a 200-mile limit, in seizing our property and imposing fines and license fees. Do not start down that road. Do not put our stamp of approval on piracy.

Mr. BOB WILSON. Mr. Chairman, I want to associate myself with my distinguished colleague, the gentleman from San Diego (Mr. Van Deerlin), the previous speaker, in his remarks about the tuna industry in San Diego.

I realize that the committee has worked hard on this legislation. There are real considerations underway and very real prospects of eventually having a 200-mile limit or a 200-mile economic zone, but this is not the time for it.

I have been a member and a delegate of the Law of the Sea Conference in Caracas and in Geneva. Yet here we are, the leader of the free world, one of the greatest nations in the world, that has been encouraging some 140 other nations in the Law of the Sea Conference to get together and talk over the problems of jurisdictional rights and other implications of a 200-mile limit. If we pass this legislation, we will be, in effect, pulling the rug out from under these Law of the Sea negotiations. We will be telling those other 140 nations that we have only been kidding in our desire to try to come out with a Law of the Sea. We are going to act unilaterally if we pass this legislation, something that we have been condemning other nations for doing. We need a Law of the Sea. We need to have regulations propounded that would establish conservation practices and make other nations live

up to those conservation practices across the world. We need to be able to fish within the limits of other nations as well and to allow other nations at times to fish within ours, if they use proper conservation practices.

This is truly one of the most important pieces of legislation that this House has ever considered. I am just sorry that we are considering this here in the closing minutes before we go off on recess. Because it is so important I think the entire House should be hearing these arguments and listening to the reasons for and against this legislation.

But, I implore my colleagues not to pull the rug out from under the Law of the Sea Conference. We have another Conference set in the spring of next year in New York, and I am positive having attended those previous Conferences, that a meaningful Law of the Sea can be developed which will accomplish many of the purposes of this proposed legislation. Do not let this country sabotage the fine work that has been accomplished thus far by 140 other nations at the Law of the Sea Conference.

I urge my colleagues to oppose this legislation.

Mr. BREAUX. Mr. Chairman, for some time now, we have received repeated reports from Law of the Sea sessions that progress was being made on the subject of economic zones.

For some time now, we have received repeated reports from Law of the Sea sessions that a breakdown in negotiations would delay further consideration on the subject of economic zones.

I, for one, Mr. Chairman, feel that international agreements, in some cases, serve the best intended purposes. I feel, however, that Congress has been extremely patient in waiting for appropriate action to be taken on this subject by our negotiators at the Law of the Sea Conference. I challenge the assertion that action by Congress on this matter will cause international confrontation. I am afraid that the United States has become shy and overly concerned with the prospect of international criticism in taking necessary protective steps as regards our fisheries.

I fail to see the logic in statements to the effect that unilateral fisheries legislation will have a harmful impact on U.S. shrimp fisheries. The legislation before us today provides for negotiations between nations to protect the historical fishing areas our shrimpers have used for years off the coasts of various nations. [Secs. 201 ; 202]

With the recent announcement by President Echevarria of Mexico that his country will establish an exclusive economic zone extending 200 miles, the Congress must act to make safe an economic zone for the protection of shrimpers and other fishermen. [Sec. 101]

It is a good assumption that other nations bordering Mexico will move to establish like economic zones. As this occurs, there will be a substantial increase in the amount of foreign shrimp fishing within 200 miles of the United States. since unless H.R. 200 is enacted into law our shrimp resources would be the only ones relatively open to all nations. This year's bad season coupled with increased fishing of the area is not a stab I intend to put to the shrimpers in the name of proper international negotiations.

If we check the record, we will find that the Congress is the only protection our fishermen have had. Administrative policy toward fish-

ermen is and has been weak and of little benefit to the fishermen. Programs enacted by Congress to benefit fishermen are often rescinded, while at the same time ongoing assistance to foreign sources related to fisheries is commonplace with our Government.

The Congress has an obligation to continue protection of the U.S. fishing interest. [Sec. 2]

The majority of the commercial and recreational fishermen in the Gulf of Mexico are strongly in favor of extending U.S. fisheries jurisdiction [Sec. 101] and in placing whatever management [Sec. 102] of gulf fisheries should become necessary at the lowest possible level [Sec. 302] so that they themselves can participate in the process.

Passage of H.R. 200 will not ruin the U.S. distant-water shrimp fisheries—and it will help the much larger U.S. Gulf of Mexico coastal shrimp fleet which, in 1974, landed over 92 percent of the shrimp by volume, and more than 85 percent of the catch by dollar value in the United States.

Furthermore, whether or not we extend our fishing zone unilaterally, it may well be increasingly difficult, at least for a time, for U.S. distant-water shrimp fishermen to work out agreements like the United States-Brazilian agreement because many Latin nations and other lesser developed countries—LDC's—for nationalistic reasons unrelated to fisheries—are establishing and will establish fisheries zones in which developed nations will not, for a time, be permitted to fish. LDC's attitudes at the Law of the Sea Conference and other United Nations meetings clearly indicate this.

Some claim they worry that the Gulf of Mexico shrimp fishery will become overfished. There is no denying that, for example, both Cuba and Mexico are already planning and building large numbers of vessels to fish for various species in the gulf and in Latin American waters where we now fish—including waters which will become part of our fisheries zone under extended jurisdiction. [Sec. 101] Surely it is more desirable to have the increase in the fishing vessels off our coast be U.S. vessels.

And if we have jurisdiction over that valuable shrimp resource, we will be better able to protect it against overfishing than we could without clearcut jurisdiction. [Sec. 101]

When extended jurisdiction does become the case for the Gulf of Mexico shrimp fishery, it will also mean that we could, in a few years, become less dependent on foreign imported shrimp than we now are. And with imported seafood representing over \$1.6 billion in balance-of-trade deficits, it seems we should look seriously at the advantages of domestic-caught and processed seafood products over imported products if the domestic products could be available.

Mr. Chairman, in the light of recent international activity in this area, I feel the Congress has an obligation to act on a matter which has been ignored for too long and pass H.R. 200 in the best interest of our Nation's fisheries.

Mr. BAUMAN. I think it is nice that so many of our colleagues can join with the Committee on Merchant Marine and Fisheries at its expanded committee meeting this afternoon to discuss this important international issue. I really am dismayed at the dual quality of the arguments being made against this impressive legislation, which includes among its authors the gentleman from Maryland.

The arguments advanced against this bill do seem to have a dual quality. There is an attractive ring to some of them and yet there is also a sort of repulsive illogic. Rather like a dead mackerel lying on the beach; its beautiful scales glitter and shine, and yet at the same time it stinks.

The proponents and opponents in this House are divided between those whose fingernails are carefully manicured and whose striped pants are very carefully pressed, those who, since 1958, have been attending conferences and cocktail parties in South America, Geneva, and other places. And, on the other hand, there are those whose nails are dirty with grime and who have worked very hard for a living trying to catch fish from the unyielding sea. While all those international conferences have been going on, millions of tons of fish have been sucked up the pipe into foreign vessels and literally stolen from us.

Mr. Chairman, I am pleased to join in supporting this legislation, but I do want to say that while I congratulate my committee chairman, the chairman of my subcommittee, and the gentleman from Massachusetts (Mr. Studds) for the work they have done, I only regret that my colleague from Maryland (Mr. Gude), of prosperous Montgomery County, was unable to support this legislation.

As I listen to his remarks I did recall that his district is in much closer proximity to the State Department than it is to Ocean City, Md. I have called the mayor of Ocean City with the personal request that my colleague's passport be revoked henceforth.

Mr. Chairman, anyone keeping a scorecard of the names of Members appearing on the various colleague letters in support of and in opposition to this bill, H.R. 200, can appreciate the colorful distribution of differences in philosophy and party identification manifest in this dividing issue. Yet, despite these differences, it is evident that we are as one on the need to see that fish are preserved [Sec. 2]; that the problems of our coastal fishery industry are great and many [Sec. 2]; and that the area for effectively preserving our coastal water stocks must be 200 miles. [Sec. 101] Where we disagree, the real focus of this debate, is on the means we are to use to claim this fisheries zone or 200-mile limit which everyone acknowledges will be instituted in time, anyway.

The means which this legislation recommends is rightfully called unilateral. [Sec. 101] However, a sense of urgency over the State of our marine economy and a mature knowledge of recent history warrant that it is the just, the needed, and the only course of action our Nation can take if we are serious about preserving the sovereignty of our waters and preventing the deterioration of our fishing industry. [Sec. 2]

The opponents of this so-called unilateral action hold that we must not opt for the 200-mile limit until the International Law of the Sea Conference comes to a final agreement. They hold that despite a tentative agreement for the 200-mile extension, we must wait until the "links and gears of international law" permit the final conferees to grace the document with their delicate signatures. But I submit that those links and gears have rusted. I submit that if we wait until those habitual conference participants of so many different nations, God bless them all, that if we wait until they finally decide to call it a decade and go home, our Nation's fishermen can wave goodbye to our

fish, and our fishes' fish, as they are finally hauled from our shores by some Russian, Polish, Japanese, or other foreign fishing boat.

We cannot afford to wait. [Sec. 2] We cannot afford to vote our Nation's fishermen into the position of Hemingway's proverbial "Old Man and the Sea," watching helplessly while the world nibbles away at our sea's national heritage.

The Ocean Education project of Washington, D.C., possesses research facilities and oceanographic studies which conclude that the biomass in the northwest Atlantic has shrunk by 50 percent in the last 15 years. They note that while our Nation has made landmark efforts to conserve these areas in order that they yield larger and future catches of marine life, other nations have not. Foreign nations fish in our waters, foul our nets, pollute our shores, and rip off our more technologically constrained fishing industry with impunity. Since 1938, our national fishing catch has risen by a fraction while foreign nations have tripled their yields. They can do this, because we have operated on the assumption that in keeping our traditional "freedom of the seas" 12-mile limit, we will also see preserved the traditional manners nations of the past have shown regarding each others' unwritten territorial boundaries for commercial usage.

Unfortunately, times have changed. If we are to prevent further depletion of the ocean's fishing stocks by many of the greedy foreign commercial interests interested in robbing our national economy, we must act decisively. That calls for a decisive passage of H.R. 200. It will signify our intent that our Nation is not to be exploited against the backdrop of an International Seas Conference which moves along too slowly at a time when our Nation's vital interests are at stake.

Over 100 nations have informally accepted the 200-mile limit and have already instituted it as part of the Law of the Sea negotiations. Our country should ride the crest of this trend rather than be swept by it.

I urge the passage of H.R. 200.

Mr. BURGNER. Mr. Chairman, I rise in vigorous opposition to H.R. 200, not only for the parochial interests of my home county of San Diego, Calif., but for the general interests of the entire Nation.

To my good friends and colleagues who represent the eastern sea-coast, the Pacific Northwest, and the great State of Alaska, their concern and interest in the well-being of their very important fishing industry is understandable, indeed, commendable, although I fear the long-range effects of this bill, if enacted into law, will prove detrimental—even to their States.

I speak now for the tuna fishermen, and for those who build and supply the tuna fleet, the canners, processors, retailers—and ultimately, and most importantly, the American consumers who consume tuna in ever increasing quantities. It is reasonable in price, at least so far, high in protein value, and highly acceptable to the American palate.

Parenthetically, as delicious and nutritious as lobster, crab, salmon, and many other species are—I do not see too many schoolchildren trudging off to school with a lobster or a crab sandwich. But the tuna sandwich or salad is an everyday staple in lunch box, lunch counter, restaurant, and at home.

Tuna is a migratory fish that travels the waters of the world. The supply is not inexhaustible—and the worldwide tuna fishery must be most prudently managed in order to prevent its depletion. That is why 14 nations in the Atlantic Ocean have banded together to form the ICCAT, the International Commission for the Conservation of Atlantic Tuna. That is why eight countries that border the vast Pacific Ocean have joined together to form the IATTC, the Inter-American Tropical Tuna Commission.

The purpose is to conserve the species, have fair competition, and maintain a healthy industry without bloodshed, violence, and the things which may well follow the “staking out” of territorial claims in what have historically been the high seas.

The tuna industry has had firsthand and very painful experiences with countries that have unilaterally claimed exclusive 200-mile fishing jurisdiction. Only Ecuador and Peru have aggressively enforced an exclusive 200-mile limit. Let me tell you how it has worked, and as I do, perhaps it will become understandable why none of the 22 countries belonging to the Atlantic or Pacific Tuna Conservation Commission believes in or will support a 200-mile exclusive concept.

In addition to American tuna boats having been seized 190 miles from Ecuador, in addition to the crews being beaten and jailed, the American taxpayers have paid out some \$6 to \$7 million in fines to recover the boats, crews, and catch. The tuna industry has recovered this amount, although belatedly, from the U.S. Government. But, they have not had a free ride. They have lost some \$3 million in these seizures which they cannot recover from anyone. In the case of Ecuador, when you add the Galapagos Islands, which is part of Ecuador, you end up with a “de facto territorial sea” of some 600 miles into what we believe are international waters.

The argument has been raised that we should not worry about the effect of this action on the tuna industry because “the bill specifically exempts tuna.” But, what is the actual situation?

There are no significant tuna catches within 200 miles of our shores—but there are massive catches to be had within 200 miles of other countries. What good does it do to exempt tuna from regulation in areas where there are no tuna? None, Mr. Chairman.

View this for a minute from the standpoint of some other country which does have a 200-mile access to tuna fisheries. They see the United States unilaterally claiming a 200-mile limit for the fish products which are located within our coastal region. They see the United States attempting to fish in open waters less than 200 miles from their shores. What are they to do? They will claim their own 200-mile limit for tuna and ignore the fact that we, in our measure, exempted a species not found in our waters anyway.

In summary, Mr. Chairman, I do not claim this bill will result in the total demise of the American tuna industry. But I do claim it will be seriously damaged. I do claim this bill will destroy the 14-nation Atlantic Tuna Commission, and the 8-nation Pacific Tuna Commission—and, therefore, make the conservation of the resource an impossible dream. And these nations have worked 25 years to build this cooperative conservation and management venture.

Who will lose in the end? The American consumer, as always, with tuna growing scarcer and the price going up.

With deference to those who most sincerely support this measure, I urge its defeat.

Mr. McCLOSKEY. Mr. Chairman, I think we do a terrible thing today. It is not that the goals of this bill are not laudatory, because in Caracas and Geneva, and next spring in New York, we are hoping to achieve these same goals through international law.

But I would like to take the brief time that I have today to point out to the committee that when we take this action we are clearly violating international law.

I have waited in vain for any arguments from the committee after its months of study of this issue to suggest that our action is in accord with international law.

Let me cite to the Members from some authorities that are not unknown, faceless representatives of the Library of Congress who are mentioned here today but not named.

This is Philip C. Jessup, former judge of the International Court of Justice. Mr. Jessup said this on September 30:

I do not know of any responsible and qualified person who maintains that such a claim—

And that is this extension of fisheries jurisdiction—

would be in accordance with international law. Nor can the advocates of the proposed law take the position that the United States should abandon its historic position as a defender and upholder of international law, sinking to the level of those other countries which we denounce as lawbreakers.

This is Louis B. Sohn, professor of international law at Harvard Law School, probably one of the most outstanding authorities on international law in the world. He said this on September 25, 1975:

There is no question in my mind that such an extension would be invalid under international law and would violate the rights of other States. It would be in particular inconsistent with our various agreements on fisheries, especially the Northwest Atlantic Fisheries Convention. Such countries as the Soviet Union in the Atlantic and Japan in the Pacific could validly argue that their rights have been grossly violated by such action of the United States. Such legislation would also constitute a violation of the United States obligations under the Convention on Fishing and Conservation of the Living Resources of the High Seas, concluded in Geneva in 1958.

Louis Henkin, Hamilton Fish Professor of International Law and Diplomacy, said this on March 5, 1975:

In my view, H.R. 200, if enacted, would not be consistent with the obligations of the United States under existing international law. It is established, and the International Court of Justice has recently reiterated (in the Icelandic Fisheries Case) that a coastal State cannot extend its exclusive fishing jurisdiction into the high seas at will, **against all**.

The Court in that case said this:

The concept of preferential rights is not compatible with the exclusion of all fishing activities of other States. A coastal State entitled to preferential rights is not free, unilaterally and according to its own uncontrolled discretion, to determine the extent of those rights.

Let us look back at the title of H.R. 200. What does it say? It says:

A bill to extend * * * the jurisdiction of the United States over certain ocean areas * * *.

It is understandable perhaps after Vietnam and Cambodia that we might feel some desire to demonstrate our manhood again and plant

the flag out 200 miles and unilaterally extend the jurisdiction of the United States to 200 miles offshore. [Sec. 101] But what do we do when we do this? We abandon both our world leadership and the difficult and painful progress we have made toward international law.

In 1958 we signed a treaty, a Convention on Fishing and Conservation of the Living Resources of the High Seas. We said that all States have the right to engage in fishing on the high seas subject to their treaty obligations and to the interests and rights of coastal States, as provided for in this Convention.

We signed other conventions at that time in 1958, and we said:

The term "high seas" means all parts of the sea that are not included in the territorial sea or in the internal waters of a State.

The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is exercised under the conditions laid down by these articles and by the other rules of international law. It comprises, inter alia, both for coastal and non-coastal States:

Freedom of fishing; * * *

How can it be said that these conventions of 1958 and our treaties with other nations can be abrogated by an act of Congress?

But if there is any question about what the law is, let us look at our own Committee on International Relations Report issued yesterday, October 8, 1975. At page 9 of that committee's report entitled "Potential Impact of the Proposed 200-Mile Fishing Zone on U.S. Foreign Relations," appears the heading: "H.R. 200 Violates U.S. Treaty Obligations."

U.S. treaty obligations are the supreme law of the land, just as is our Constitution. Should the House of Representatives for a laudable purpose violate the treaty obligations of the United States? Is that a valid thing for us to do?

There are only three ways to settle disputes, through the ballot box; through a court of law or by combat.

We have seen a long history in the world of seeing wars ensue from violations and incidents arising on the high seas, from the *Lusitania* to the *Panay* to the *Pueblo* and to the *Mayaguez*.

We have some states claiming jurisdictions of 3 miles, some states claiming jurisdictions of 12 miles, and some states claiming jurisdictions of 200 miles. If we claim a jurisdiction of 200 miles in violation of international law, what do we say to the Chinese or the South Africans if they claim a territorial right out to 200 miles? We would have the same situation as we had with the *Pueblo*.

We claimed then that nations were limited to a 3-mile territorial sea. The North Koreans claimed a 12-mile limit. We tested that by sending the *Pueblo* 8½ miles off the North Korean coast.

In the Cambodian incident involving the *Mayaguez* there was a similar situation.

There would be a tremendous benefit to our national security if we could negotiate a treaty whereby all nations agree on a 200-mile economic and fishery conservation zone and a 12-mile territorial zone.

However, let me go to what is at stake for this Nation if we lose the International Law of the Sea Treaty after seeking for so many years to attain that treaty and the rule of law which is such a basic cornerstone of our own heritage and governmental philosophy.

At the present time we have the right of passage through straits. Our nuclear submarines travel under water through straits. Our aircraft travel overhead above the seas of those straits.

Let us assume that some of the nations along the straits through which we would supply Israel, for example, through Gibraltar or over the Italian or Portuguese coastal waters, assume those nations claim a 200-mile territorial sea, and deny us flight over or passage through the straits. What does that do to the national security of the United States?

Mr. LEGGETT. The gentleman is not under the impression that this bill has anything to do with the territorial sea, is he? [Sec. 2(c) (1)]

Mr. McCLOSKEY. I am saying that we have bound ourselves by treaty to recognize territorial seas in the past and if we take action that violates that treaty, we have no right to say to anyone that there is some sort of difference between fishing and territorial rights.

We signed the 1958 Convention which states that fishing rights extend to all but the territorial seas.

How can we contest some other nations' position if we have gone to 200 miles in violation of our territorial sea treaties? Why should other nations not claim that their territorial sea goes 200 miles as well?

Mr. ECKHARDT. Mr. Chairman, I think the gentleman is absolutely right.

I am looking here at the Law of the Sea Convention on Fishing and Conservation of the Living Resources on the High Seas, of which the United States is a signatory.

It says:

The measure which the coastal State adopts under the previous paragraph shall be valid as to other States only if the following requirements are fulfilled. . . . (c) That such measures do not discriminate in form or in fact, against foreign fishermen.

Of course, the convention on the high seas simply guarantees freedom of navigation, freedom of fishing, period.

I note in this bill, in one of the purpose clauses, paragraph (8) [Sec. 2(c) (2)] on page 12, that one of the purposes is not to authorize any implement to, or interference with, lawful activities on the high seas "except with respect to the protection and conservation of fisheries resources as provided by this Act."

I think the act itself admits its violation in that section.

Mr. McCLOSKEY. I thank the gentleman for making that comment.

Mr. RUPPE. Mr. Chairman, I yield 3 additional minutes to the gentleman from California (Mr. McCloskey).

Mr. BINGHAM. Mr. Chairman, I thank the gentleman.

I just wanted to commend him on what I think is the finest statement we have heard here this afternoon.

As I have listened to this debate, it is clear that there are sectional interests in this country that go both ways. Some people would be hurt by this bill and some would be helped. That leaves the rest of us in a position to do what is right, and the gentleman from California (Mr. McCloskey) has been explaining what is the right and prudent thing to do in this situation.

Mr. McCLOSKEY. Mr. Chairman, I thank the gentleman. I am not so sure that if the Representatives of the fishing States would look to this area, they might not observe that there is a great deal more to gain

if we can proceed to an international treaty protecting our fisheries than by seeking to do so unilaterally.

The three greatest types of fish for the U.S. fishing industry are tuna, salmon, and shrimp.

As to shrimp, 20 percent of them are caught within 200 miles of other countries, and many of them outside of 200 miles of our shores. Most of our tuna are caught within 200 miles of the shores of other countries. The salmon are migratory, leave our coast, and migrate hundreds of miles into the Pacific.

Up until now we have had a bilateral agreement with the Japanese that they will not engage in fishing for salmon beyond a certain point.

The value of those three fishery industries is tremendously greater than the fish within the coastal zone that will be protected by this.

[Secs. 101; 102]

We have seen U.S. fishermen range across the world taking whales and now we are seeking to protect the whales and to protect the seals and to protect the other animals of the ocean, but they can only be protected by international treaty.

It is understandable that those who want this bill are impatient and dismayed by the slow process that is taking place in current international negotiations. But, consider our own progress in the Congress where the country has been asking that we come up with a national energy policy for over the past 3 years. More than anyone else we should understand that both the negotiating and legislative processes are slow and difficult. The legislative process cannot be, and should not be, speeded up at a time when there is such a vast range of differing interests as exists with respect to oceans of the world.

To stop at this point when we are within a year or 2 years of success in achieving an international treaty, would be almost unconscionable for this Nation which has more than any other country in this world so much to lose if we are unable to achieve an international law of the seas.

Mr. LEGGETT. Mr. Chairman, one of the problems with the convention the gentleman is referring to is that all of the States we are concerned with are not members. The Soviet Union is not a member, Poland is not a member and Chile is not a member and neither is Panama.

Mr. McCLOSKEY. But the Soviet Union is a member of the High Seas Convention.

Mr. LEGGETT. Of the Law of the Sea they are, but not of the 1958 convention which the gentleman referred to.

Mr. McCLOSKEY. Let me correct the gentleman, they are not a member of the fisheries Convention, but of the High Seas Convention. They have a treaty right against us under that Convention.

Mr. BIESTER. Mr. Chairman, for years the United States has steadfastly advocated the negotiation of comprehensive, equitable international agreements to regulate the exploitation of the world's ocean resources, protect the delicate ocean environment upon which our lives ultimately depend, and ensure our national security by minimizing the risks of international conflict. The Law of the Sea Conference, conceived during the 1967 United Nations General Assembly, has sought to address these complex questions. The resulting negotiations have been lengthy and arduous. Understandably, this has created deep con-

cerns and frustrations with the entire Conference and proposals to take unilateral action in areas where dangers to American interests seem particularly immediate.

H.R. 200 is one result of such frustration. Its major provisions—extending the U.S. exclusive fishery zone from 12 to 200 [Sec. 101] miles and creating a management resources program governing American and foreign fishermen within the zone [Sec. 102]—are intended to save from extinction fish stocks which have been severely depleted due to extensive overfishing. [Sec. 2] Over the past decade, fleets of sophisticated foreign fishing ships—veritable floating factories—have reached into waters where traditionally independent, hardy, but smaller American fishing boats once sailed nearly alone. H.R. 200 seeks to protect these fishermen from their foreign competitors and allow the depleted stocks to grow through marine resource management. [Sec. 2] The Law of the Sea Conference, it is argued, has been too slow in addressing the fishery problem, and the danger to marine life off the American shores is too imminent to accept further delays.

But the political and economic [Sec. 2] costs of enacting H.R. 200 clearly outweigh its intended benefits to the American fishing industry. By unilateral action on the fishery issue, the Congress will undercut progress which has already been made at the Law of the Sea Conference in this and even more sensitive areas.

First of all, the prospects of achieving a uniform, internationally accepted code governing ocean fisheries would be irrevocably damaged by enacting H.R. 200. It is true that progress at the Law of the Sea Conference has been slow. But last spring, delegates did, in fact, reach consensus on the basis of an agreement to create a 200-mile economic resource zone which would include fisheries. These negotiation drafts will serve to write formal texts at the next conference in New York this coming May. But if the United States today declares its exclusive 200-mile fishing zone, what will keep other nations who have thus far shown considerable restraint from following our example? Once a series of individual unilateral claims have been enacted, it is unrealistic to expect them to be set aside by an eventually international accord. The good prospect for achieving an orderly, agreed upon international accord on fishing will have been replaced by an uneven, conflicting mosaic of fishing zone claims. Furthermore, there can be no mistake that the targets of this legislation are the Soviet Union and Japan. Are we prepared, with little or no justification in international law, to attempt to enforce the provisions of H.R. 200 against their—and others'—adamant opposition?

Second, once the fishery question has, for all intents and purposes, been removed from the arena of international negotiation, issues which are much more critical for American national interests would likely be declared "nonnegotiable." The reason is clear: Unilateral extensions of jurisdictional claims in one area have repeatedly encouraged similar claims in others. Let us examine but two of these areas.

Of paramount interest to American national security is maintaining the right of free transit through international straits. If, for example, our nuclear submarines and surface navy were unable to transit freely through the Straits of Gibraltar or the Straits of Malacca, our ability to resist local aggression or quickly and secretly maneuver our

strategic forces would be severely hampered. Yet Spain, Indonesia, and numerous other nations bordering on international straits are presently considering the declaration of their full national sovereignty over these important passages. In other words, the U.S. Navy could be denied the mobility necessary to its role in our national defense. The straits issue is, as we all know, a major issue before the Law of the Sea Conference. If, as many fear, agreement on the fishery question—for which an international consensus has substantially developed—is shortcircuited by legislation such as H.R. 200, we cannot expect a satisfactory resolution to negotiations on the even more important straits issue.

But questions of national security do not stand alone in challenging the wisdom of H.R. 200. The Members of this House have been inundated with statistics relating to the economic importance of protecting our coastal fisheries. I cannot contradict these figures. But while our coastal fishery resources are of great value, so, too, is that wealth of mineral resources which lies on and beneath the ocean floor. I am thinking of the petroleum deposits which can help meet our energy demands of tomorrow, as well as numerous other minerals which can serve our industrial needs as well as those of the developing nations. Our Nation is unquestionably the best-prepared for undertaking exploration and eventual exploitation of the deep sea mineral deposits. And under proposals already announced by the Secretary of State, the entire international community would share in the benefits of these operations. But once again, a comprehensive international agreement is a prerequisite to the full and efficient use of these resources, not to mention the necessity of guaranteeing the security of the enormous private and public investments which may be required. Again, any legislation which jeopardizes the entirety of the Law of the Sea Conference must, by necessity, jeopardize our future access to the ocean's mineral resources.

Other issues presently before the Law of the Sea Conference, such as international cooperation to combat pollution and protect the rights of scientific research on the ocean, are also of significant importance to this country.

The Law of the Sea Conference, then, must be regarded as a "package deal" which concerns several areas of long-range importance to our future generations. We cannot impatiently jump the gun on the fishery issue without compromising our chances for success on all of the others. The advocates of H.R. 200 argue for some illusive immediate relief to our fishermen. [Sec. 2] I believe, however, that the interests of these rugged Americans, whose courage and pride we have all admired, will ultimately be better served by a comprehensive Law of the Sea Treaty which will be in the common interest of all our people.

For these reasons, Mr. Chairman, I cannot support this legislation.

Mr. PRITCHARD. Mr. Chairman, I support H.R. 200 and would like to comment briefly on some of the points that its opponents have made.

First, it has been suggested that action on this bill would disrupt the Law of the Sea Conference. I do not think that will happen. The bill specifically provides that it will be superseded by any agreement coming out of the Law of the Sea Conference [Sec. 401]; it is a virtual

copy of the position of the vast majority of countries at the conference [Sec. 2]; and it provides for reasonable access to our fishery resources by other nations. [Secs. 2(c) (4) ; 201 ; 202] If the fishing issue could be isolated the position reflected in this bill would be adopted overwhelmingly at the conference. But the Law of the Sea Conference, confronted with the demands of the developing world for a "new world economic order" is deadlocked over other issues and will remain so for years. The question is whether we face this issue now or after several more years of deadlock at the Law of the Sea Conference. The Law of the Sea Conference has great potential and it deserves the best attention that our Nation has to give. But by acting on this bill, we only remove a noncontroversial issue.

Second, it has been suggested that this bill might be in violation of international law. What the bill's opponents fail to recognize is that international law is dynamic and flexible. It is formed largely by custom and gradually evolving rules of international practice. This bill reflects an international trend toward coastal state jurisdiction over its offshore fisheries. Much of the developing world already has 200-mile fisheries zones. The Congress has recognized this trend, for example, by passing the Brazil Shrimp Agreement whereby U.S. citizens pay for the right to fish in Brazil's 200-mile fisheries zone. Action on this bill then will only reflect the developing international trend.

Third, it has been suggested that if the United States acts to extend its fisheries jurisdiction, other nations will extend their jurisdiction indiscriminately and thereby close straits and hamper commercial and military transit. But closing straits and hampering navigation have not been accepted developing trends in international practice. [Sec. 2(c) (1) ; 2(c) (2)]

Moreover, the vast majority of nations have a vital interest in insuring that the world's international straits are free for navigation. [Sec. 2(c) (1) ; 2(c) (2)] This is particularly true for countries such as the Soviet Union which are vitally dependent on straits just for access to the oceans.

Finally, I think it is important to act on this bill now in order to preserve a world food resource. As long as no nation has jurisdiction over a resource, conservation and management are impossible since a reduction in one nation's effort will merely mean that competing nations get a larger share. The only effective way to stop the rapid depletion of the world's fisheries is to give coastal nations the jurisdiction to manage them. [Sec. 2]

This bill is well drafted and moderate; it virtually tracks the world's position on fisheries at the Law of the Sea Conference; it reflects a developing trend in international practice; it allows reasonable access by other nation's fishermen [Secs. 2(c) (4) ; 201 ; 202], and most importantly it will provide an opportunity to manage one of the world's most important food resources. [Sec. 102]

I ask all Members to join me in supporting H.R. 200.

Mr. RUPPE. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. Don H. Clausen).

(Mr. Don Clausen asked and was given permission to revise and extend his remarks.)

Mr. DON H. CLAUSEN. Mr. Chairman, one of the great dangers of being a speaker following the committee members is the fact that almost everything has been said. We have had legal scholars, and they will argue the legal points. It will not be my intent to speak for the lawyers. I will let the constitutional lawyers present their case. But I should like to speak very forcefully on behalf of the fishermen of northern California.

As the Members can understand, there is a little division of opinion on this issue, between the Representatives of northern and southern California, the Members will understand why some of us are looking at the possibility of dividing the State. I am saying that somewhat in jest, but sometimes we need to refer to it in order to put this different of opinion in full perspective.

Let me say this to my colleagues. The issue is not a security issue. The issue is clearly a conservation issue. I speak for the fishermen off the northern coast of California. The Members saw the gentleman from Alaska, Mr. Young, come down here to the well and show you the Japanese net. I have seen large Russian dragnets off of the coast of Oregon, up in Coos Bay, North Bend, Oreg., and off our coast, all with undersized mesh. These massive vessels that the Russians use as they fish off the coast of California are triple tandem, a big dragnet that scoops up everything with undersized mesh, which are illegal under California law. They are followed by a processing vessel, and then followed by a refrigerated vessel that stores the catch and takes it back to the Soviet Union, or to Poland.

I want to appeal to my colleagues to support this legislation for one simple reason. If we can unite behind the executive branch and the Congress on the conservation question [Sec. 101], then I believe we can unite to resolve the tuna problem [Secs. 2(b) (2) ; 103] and protect the security concerns of the United States and the U.S. Congress through their people's Representatives as we work together to resolve those basic international issues pending before the International Law of the Sea Conference.

Mr. LEGGETT. I want to acknowledge that the gentleman in the well was the first man in this House to offer a 200-mile bill. I know he is very pleased to see us come up with a bill in final form, and we are pleased to have his support for the final version.

Mr. DON H. CLAUSEN. I am grateful to the gentleman for his gracious remarks.

I want to bring the Members up to date on what is happening in California. This Mailgram message comes from Dennis Grotting of the Fishermen's Marketing Association from Eureka, Calif. I read as follows:

California's coastal fishing resource is being depleted by a large fleet of Russian and Polish fishing vessels. State Department agreements with each country are inadequate and unenforceable. For example, National Marine Fisheries scientists say the sustainable yield of hake is 150,000 tons. Yet negotiated agreements call for the following quotas: Russia, 150,000 tons; Poland, 40,000 tons. Scientists estimate the total of take in 1975 to be 225,000 to 300,000 tons. Salmon and rockfish and sole are also caught but not reported.

I have seen these Russian vessels weaving in and out of the currently established 12-mile limit at night. Is it any wonder that our

people on the northern coast of California, our fishermen and their wives, are pleading with us to do something in the Congress to get the Russians off of the backs of the American fishermen and out of the pockets of the American consumer.

Mr. Chairman, the fact that we are debating H.R. 200 here on the House floor today is a significant milestone. Today's debate represents the culmination of nearly 10 years of hard work by many people.

For over a decade, the fish that inhabit our coastal waters have been attacked by foreign fishing fleets with a fervor that exceeds any previous effort in man's history.

We have seen the whales of the world virtually rendered extinct by man over the past two centuries. This was done slowly with limited supplies of what we consider "modern technology."

Today, fish species off our shores are threatened with the same fate in a fraction of the time through the all-out use of every "modern" device employed by foreign fishermen who take our fish to protect their own coastal fishery.

This situation cannot be tolerated any longer. We may be too late already, but we must act now if we are to have any hope of conserving a precious resource. **[Sec. 2]**

From the very beginning, American fishermen have recognized the need to adopt practices that reflect an understanding of maintaining fishery stocks for the future. Their continuing livelihood has been based on this practice and they have been faithful to it.

In California, for example, our fishermen began limiting net mesh size in the 1930's—voluntarily. They did so because they were recognizing a decline in production from a growing number of fishermen and boats.

Trawl fishing in California only began in 1876 so it took only about 50 years for the effects of the fishery to be felt in the numbers of fish.

California's fishermen continued to adhere to voluntary regulations on their own and it was not until 1947 that the California Legislature took action to establish a mesh size. When it did, after a good deal of experimenting in conjunction with the Washington State Department of Fisheries, it set a 5-inch mesh size for trawling—the size to which our fishermen were already using on their own.

No fisherman I have spoken to has ever indicated any doubt that restrictions on mesh sizes and seasons are highly beneficial to the continuance of their income and the insurance of future availability of fish for the marketplace.

Into this setting came the Russian fishing fleet in the early sixties. The Russians used larger, more powerful boats than the Americans. They used larger nets with very small mesh sizes. They very literally took every fish that happened to be in their path.

The Russians were fishing 6,000 miles from home and remained at sea for 2 years at a time. The fishing boats traveled with a factory ship that did every conceivable kind of fish processing at the time of the catch. In order to be fairly economically efficient, their catch had to be huge. Only by stripping the sea bare could they be successful.

People familiar with Pacific coast fishing have told me that today the Russian catch of hake, for example, is about the maximum sustainable yield for that particular species. At the same time, our fisher-

men are catching hake and several other nations, including Poland, are also catching hake. There is only one possible result from this situation and that is an end to hake off our shores.

If these foreign fleets are allowed to fish off our coasts at the current rate, then all our efforts toward conservation are lost. And, equally as important, we will be dependent upon foreign sources for the fish we eat.

We are facing a serious, determined challenge. One that the Congress cannot back down from. We must act. **[Sec. 2]**

The past decade has seen a number of possible solutions advanced, but nothing has come of a single one of them. Now it is time to pass H.R. 200 and establish a 200-mile fishery and marine conservation zone off our shores. **[Sec. 101]** If we do so, we can guarantee the protection of our coastal fishery forever. **[Sec. 101]** If we do not, we can guarantee its ultimate loss.

The foundation of H.R. 200 is the creation of a zone of protection. **[Sec. 101]** It is important to note at this point that the zone is a conservation zone and is not an extension of the territorial sea **[Secs. 2(c)(1); 101]**

The creation of this zone maintains the concept of the "freedom of the seas" which guarantees the retention of traditional navigation passageways. **[Secs. 2(c)(2); 101]** No one argues that we should extend our territorial jurisdiction since our only goal is the protection of our fisheries and other marine resources off our coastline. **[Secs. 2(c)(1); 101]**

Extension of the zone, for which we have already established a precedent with our 12-mile limit, is the only way we have to be able to enforce conservation practices. **[Sec. 101]**

The plans for managing the zone are authorized under the bill **[Secs. 301; 302; 303; 304; 305]** and provision is made for planning on a regional basis. **[Sec. 302]** Each region will have a regional council to consist of representatives from the fishing industry, the States in the region, and the public at large. **[Sec. 302]**

The basis for the plans will be the principle of "optimum sustainable yield." **[Sec. 301(a)(1)]** This concept, which is being so readily violated by foreign fleets today, recognizes the requirements to utilize our resources to the greatest extent possible, but without risking their ability to replenish themselves.

The legislation recognizes the desirability to continue to manage our resources, and will enable us to more closely control this action. **[Sec. 2]** At present we have no means by which to control the number of fish being taken by foreign fishing fleets. **[Sec. 2]** Under this bill, these boats will be licensed by the United States **[Sec. 204(b)(10)]** and will be made to abide by the regulations established by the councils. **[Sec. 201]**

Surveillance and enforcement will be under the jurisdiction of the Coast Guard. **[Sec. 311]**

H.R. 200 does not interfere in any way with existing fishery agreements. All the agreements to which the United States are a party to will remain in effect until their negotiated expiration dates. **[Sec. 201(b)]** Attempts, however, will be made to renegotiate these agreements where ever possible to have them comply with the provisions of H.R. 200. **[Sec. 202(a)]**

The bill also provides that the United States will continue to work within the framework of the Law of the Sea Conference to work toward an international agreement. [Secs. 2(c) (5) ; 401]

The bill we are advocating here today is a highly realistic and practical approach to the fisheries problem because it recognizes the three fundamental types of fish and their relationship to the international fishing industry and to the nations which have a stake in protecting them. [Secs. 2; 102; 103]

Coastal species are those which will live generally in a limited area of the ocean. These species are primarily fished by the nation whose waters they inhabit and that nation will naturally have an interest in conserving them to the greatest degree possible. Under the philosophy adopted in H.R. 200, each nation would be able to see and obtain tangible rewards for adopting conservation-oriented rules and regulations. [Secs. 2(b) (1) (A) ; 102(1)]

Anadromous species are those fish that live most of their lives in the ocean, but swim up fresh water streams to spawn and die. These are the most fragile species since they must be able to survive their marine life and return successfully to the river of their birth and swim upstream to find a suitable spawning site. [Secs. 2(b) (1) (B) ; 102(2)]

The United States spends millions of dollars each year to insure that those anadromous fish who spawn in our streams are able to get upstream and will find spawning areas when they get there.

This takes a tremendous amount of work and research to be able to do the job and, in my judgment, we are only now beginning to reach an adequate level of effort to retain this resource.

But these fish range as far away from our Pacific coast as Japan. They are gone for 5 years before they return. And, they return at predictable times. All of this makes them relatively easy game for fishermen.

We are the ones who invest our time and money to protect the anadromous fish, we should have a role in protecting them. H.R. 200 will give us that opportunity. [Secs. 2(b) (1) (B) ; 102(2)]

Finally, migratory species—of which tuna is the most controversial today—should be regulated under international agreements, not by one nation alone. These fish are never found in the same location. They travel extensively and no nation can really claim them so no nation should control them. [Secs. 2(b) (2) ; 103]

Mr. Chairman, as I said in testimony before the Senate Commerce Committee in 1966:

Our fishermen cannot pass laws. Our fisherman cannot stop the invaders of their traditional fishing grounds. The responsibility for any such actions lies with us. And, Mr. Chairman, it is a responsibility that we must accept. We must act with dispatch for our fishermen are faced with the serious implications of this problem right now with every indication that it will grow in scope.

The problem has grown in scope even more disastrously than we could have imagined at that time. We have got to recognize this urgency and respond now. [Sec. 2]

Mr. Chairman, I, personally, the Congress, the country, and in particular, the fisherman, their families, and the people I represent on the north coast of California are deeply appreciative of the sensitivity, responsiveness, and fairness of the Merchant Marine and Fisheries

Committee in their efforts to advance this legislation, the 200-mile marine fisheries conservation zone, through the House of Representatives and hopefully into law.

In particular, I want to thank the very able and talented chairman of the committee, the gentle lady from Missouri, (Mrs. Sullivan). She has been firm in her resolve to bring to the floor a bill that is in keeping with the domestic interests of our fishermen and consistent, on an interim basis, with our official negotiating position at the International Law of the Sea Conference. She has been fair in the handling of participants, witnesses and we, the Members of Congress, most directly involved in advancing this legislation.

Without her factual evaluation of this complex and controversial matter we would not be this far along on the legislative road to enactment. She has performed beautifully in so many ways and we shall be eternally grateful for her extraordinary cooperation on this crucial and vital matter.

My colleague from California (Mr. Leggett), the chairman of the subcommittee has moved positively and objectively to help us achieve our desired goal. He has proven to be an articulate advocate for the 200-mile limit and worked diligently to bring about a final legislative product that protects American interests and accommodated the concerns of many who had earlier reservations. To you, Bob Leggett, I am thankful for the exceptional display of cooperation you have extended to me and all Members involved, and proud of the bipartisan attitudes displayed under your leadership. You have performed magnificently.

To my friend and working partner (Mr. Studds), the gentleman from Massachusetts, with whom I have shared the principal cosponsorship responsibilities, I want to state strongly for the Record how brilliantly he has performed as the lead author of H.R. 200.

Serving as we do on the Committee on Public Works and Transportation, I came to realize during conversations that our congressional districts on the east and west coasts, respectively, had great similarities—one of them being a long and beautiful coastline and another being a very vital fishery area that is extremely important to the economic well-being of our people and to the Nation.

Together we have coordinated contents and strategy for nearly 3 years. Someday, Gerry, we should write a book on the establishment of a marine fisheries conservation zone off the coasts of our United States. It would be an extraordinary historic document and certainly a best seller.

You have demonstrated time and again a sense of determination and dedication to our common objective that is exceptional and extraordinary by any standard.

Your leadership in the committee and among your fellow Democrats has dovetailed superbly with efforts of Mr. Forsythe of New Jersey, Mr. Young of Alaska, Mr. Pritchard of Washington, Mr. Cohen and Mr. Emery of Maine, Mr. Lott of Mississippi, Mr. Ruppe of Michigan, and myself as we strategized, met with President Ford and other leaders in an effort to protect and represent all interests of the United States.

Without a coordinated bipartisan effort our objectives could never be realized.

Gerry Studds, you have my everlasting admiration and respect as a skilled legislative craftman, a brilliant legal scholar, and a dynamic and dedicated Congressman who fights for his district, is sensitive to the needs and concerns of his colleagues and works for the overall conservation interests of the people of the United States.

To the ranking Republicans of the subcommittee, Mr. Forsythe of New Jersey, my everlasting gratitude is extended to you for permitting me to be an ad hoc or ex-officio member of your committee.

Your fairness and management skills plus your unselfish devotion to the 200-mile limit cause will record you in history as one of the champions of marine fisheries conservation in our Nation and the world.

To all the members of the committee and the Congress, words will never adequately express how deeply I appreciate your patience, consideration, and understanding of my north coast of California constituents' plight.

In the future, history will vindicate the support you have given to our efforts. Your children will enjoy the renewable resources of the sea with each passing generation and you will have their undying gratitude.

Mr. BELL. Mr. Chairman, I rise in strong support of H.R. 200.

It is time for the United States to take a strong position.

We have allowed foreign fleets to do terrible long-term damage to the fisheries off our shores.

For year after year, the State Department said it would work out an international agreement to halt the rape of the seas.

The State Department has failed utterly.

In the meantime, the vast fleets of Japan, the Soviet Union, Poland, and South Korea have systematically destroyed our fisheries.

One of our most valuable national resources is being plundered by these foreign fisheries fleets.

There is already a general international consensus that 200-mile fishery limits are necessary.

Thirty-seven coastal nations have established exclusive fishery jurisdictions beyond 12 miles.

These were all unilateral actions.

The National Advisory Committee on Oceans and Atmosphere recently recommended that the United States immediately declare a 200-mile economic resource zone.

It is time for the United States to declare a 200-mile fisheries limit.

From this position of strength, we can negotiate a worldwide arrangement.

It is not only the fish that are endangered.

There is great public interest in the United States for action to save the great whales from extinction.

The vast whaling fleets of Japan and the Soviet Union are now launching their deadly harpoons into the last of these huge mammals.

H.R. 200 would severely curtail whaling in the North Pacific Ocean [Sec. 404], where the Japanese and Soviet whalers have killed more than 12,000 whales in recent months.

The Soviet whaling fleet brazenly carried out its bloody business just 50 miles off the California coast this summer.

And Japanese whalers are greedily eyeing the California gray whale, which is the State marine mammal.

It seems that the only language the Japanese and Soviet whalers understand is forceful action.

They have ignored repeated appeals by the United Nations for a 10-year moratorium on whaling.

The House of Representatives has endorsed the 10-year moratorium.

Passage of H.R. 200 will not only halt the destruction of our coastal fisheries [Sec. 101], it could help save the great whales from extinction. [Sec. 404]

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of H.R. 200, as one who represents a coastal district, and who has sat through many hearings on this bill, I believe I know what it does and what it does not do. And I am convinced that passage of this bill by the House would be in the best interest, not just of my constituency, but the entire Nation. [Sec. 2]

Indeed, an argument can be made that more than our national interest is at stake here, because the basic thrust of this bill is one of international concern, involving the interest of the entire world community. [Sec. 2]

The coastal waters of the world are the last great resource of this planet. They harbor 95 percent of all life in the sea. They have an enormous capacity for production when conditions are right. But when conditions are wrong, it is a desert. Man has only recently had the capacity to deplete this resource. It is being depleted in two ways—through pollution, and through overfishing. [Sec. 2]

What the opponents of this bill are really saying is that we should allow this destruction to continue unabated until such time in the future as all nations are able to agree on a solution. What I am saying is that we cannot wait. [Sec. 2] The Russians and Japanese and others are apparently going to continue this vacuum cleaning of the seas until we stop them.

Pass this bill today and you will put them on notice that we mean it when we say we are committed to the protection of this resource. [Sec. 2] Pass this bill and you will have something more than words to take to the next Law of the Sea Conference; you will have a tool for enforcement of our pledge. [Sec. 2(c)(5)] Pass this bill and save the most promising food resource on this planet. [Sec. 2]

Let us continue to try to reach international agreement. But in the meantime, let us save the resource. [Secs. 2(c)(5); 401]

I urge a "yes" vote.

Mr. RUPPE. Mr. Chairman, I rise in support of this legislation. I certainly support the efforts that the individuals on the committee and in this Congress have made to preserve the fishing stocks of the United States. [Sec. 2] I would say, however, I am somewhat troubled by one provision of the legislation and do hope that later on the conferees or Members of the House will consider the effective date [Sec. 104] which will be established in this legislation.

As we all know the effective date [Sec. 104] for this particular bill is July 1 of next year. There is some possibility that on the Senate side there may be a provision inserted in the legislation that would make the effective date somewhat later in the year, perhaps the end of the year, perhaps December 1, 1976. [Sec. 104]

Let me say I think the effective date is a very important provision in the final legislation. [Sec. 104] It has been suggested by the State Department and others that this legislation may be violative of international law. There are other questions raised by the State Department as to whether this legislation does not undo the work that has been undertaken in the Law of the Sea Conference. It has been strongly hinted or suggested that the Law of the Sea Conference may effectively develop an overall convention next year. It is also the opinion of the State Department that if the session in New York early in the year is not successful, there is a strong likelihood of the possibility that a second session would be forthcoming next year and that the second session would produce results in the form of a convention or international arrangement which we could all support.

I think it would be very important and profitable if indeed the Law of the Sea Conference was effective in developing an international convention. This would solve the problem we face in this case while at the same time meeting many of the reservations that have been expressed by the State Department and, I might say, expressed very strongly by the President of the United States.

So I hope that the committee and the conferees later will take into consideration any Senate provision whereby the effective date of this legislation would be extended into late 1976. [Sec. 104] I believe it would meet many of the objections of the President, many of the legitimate questions raised by the Secretary of State, and it would be a very profitable accommodation as far as the implementation of this law is concerned. [Sec. 104]

Mr. Chairman, I rise in support of H.R. 200, the Marine Fisheries Conservation Act of 1975. This legislation is the culmination of intensive subcommittee and full committee markup in the Merchant Marine and Fisheries Committee. The committee analyzed and deliberated over each and every section of this bill over a period of weeks. Much of the impetus for this legislation came from Mr. Studds, although, of course, a number of changes have been fashioned. It has been fashioned into a comprehensive fisheries conservation and management program. [Secs. 101; 102] which will provide the means to insure that our fisheries are restored and remain viable for generations to come. [Sec. 2] This management machinery will be needed whether or not the Law of the Sea Conference ever reaches a conclusion. We are, in effect, implementing prior to ratification what appears to be world consensus with respect to fisheries.

H.R. 200, as reported by the committee, embodies as its cornerstone the concept of optimum sustainable yield. [Secs. 2(b) (4) ; 301(a) (1)] This management concept is based upon an understanding of the biological ability of our fishery resources to reproduce themselves and still withstand a reasonable amount of harvesting. The level at which a fishery can be harvested without triggering an irreversible decline in resources is called the maximum sustainable yield. The concept of optimum yield permits the fisheries managers in establishing quotas to reduce the catch below maximum yield or to increase the catch beyond maximum yield on a temporary basis as circumstances warrant. The key to optimum yield is, therefore, flexibility.

A second fundamental concept embodied in H.R. 200 is that of sharing excess stocks. [Sec. 201(d)] This is a cornerstone of the U.S.

negotiating position in the Law of the Sea treaty. Contrary to the misconceptions that have been circulated regarding this legislation, H.R. 200 does not preclude foreign fishing off our shores. [Secs. 2 (c) (4) ; 201 ; 202 ; 302 (h) (5) ; 303 (a) (4) (B)] Our recognition of this obligation to share the resources with the world community in effect places the United States in the forefront of worldwide efforts to make available the maximum amount of protein that can be safely harvested from the sea. [Sec. 2] Clearly, American fishermen cannot harvest the resources within 200 miles of the United States up to the level of optimum yield for most species. [Sec. 201 (d)] Foreign nations will be permitted to continue to fish as they have the past but under sound management programs. [Secs. 201 (d) ; 201 (e)]

Foreign and domestic fishing will be conducted under these fundamental principles of optimum yield and sharing of excess stocks [Secs. 201 (d) ; 302 (h) (5) ; 303 (a) (4) (B)] by means of management plans which will be promulgated by councils composed largely of State, public, and fishery representatives [Sec. 302] subject to the overall authority of the Secretary of Commerce. [Sec. 304]

Three councils have been proposed for the Atlantic coast, recognizing the great diversity of fisheries that range from Maine to Florida. [Secs. 302 (1) ; 302 (2) ; 302 (3)] One council has been established for the gulf coast, [Sec. 302 (5)] one for the West coast [Sec. 302 (6)], and one for Alaska which will include representation from Oregon and Washington. [Sec. 302 (7)] Finally, a council is proposed for the Western Pacific area, including Hawaii, Samoa and Guam. [Sec. 302 (8)] The councils, by means of hearings at the local level within their respective geographic areas and with expert advice and assistance from the Secretary of Commerce acting through the National Marine Fisheries Service, will develop management plans as needed on a species-by-species basis [Secs. 302 ; 303 ; 304] These plans upon approval by the Secretary will be the subject of further hearings at the national level. [Sec. 305] A system of management plan development has been carefully structured to insure that the local interests of the coastal areas, as well as the national interest, will be fully protected and taken into account. [Secs. 301 ; 302 ; 303 ; 304 ; 305] Foreign fishing, for species under management and for those that do not require specific management plans, will be conducted under a permit system. [Sec. 204]

The permit system developed in H.R. 200 is one of its more innovative features. [Sec. 204] Foreign nations wishing to have their fishing vessels engage in fishing within the zone will apply to the United States for permits. [Sec. 204 (b)] The Secretary of Commerce after consulting with the Secretary of State, the Coast Guard and the local councils, may grant these permits [Sec. 204 (b) (6)] under appropriate conditions which he will establish to insure that the foreign fishing effort is consistent with the underlying principle of optimum yield. [Sec. 204 (b) (7)] Licenses will be issued to the foreign vessels. [Sec. 204 (b) (11)] The bill contains comprehensive provisions dealing with enforcement of these regulations. [Sec. 311] The permit system will greatly facilitate Coast Guard enforcement and surveillance. [Secs. 204 ; 311] The United States will know specifically which vessels are authorized to engage in fishing within the zone, what species they are taking, and in what quantities. [Sec. 204] We have carefully avoided imposing criminal sanctions against foreign vessels except in those instances where a boarding officer is physically threatened. [Sec. 309]

Under those circumstances, he would have the authority to arrest. [Sec. 309]

As my colleagues undoubtedly know, many of our fisheries are now the subject of international agreements. While there are a number of treaties dealing with fisheries off the United States, much of the foreign fishing is conducted under bilateral executive agreements. The legislation does not, and I must repeat, does not abrogate any treaties. [Secs. 201; 202] It simply directs the Secretary of State to make a good-faith effort to renegotiate these treaties so that they will be conformed to the requirements of this legislation. [Sec. 202] The Secretary is directed to report annually to Congress beginning next May with respect to these efforts to renegotiate treaties. [Sec. 203]

So far as the bilateral agreements are concerned, virtually all of them will expire by their own terms within a year. The legislation states that if either the United States or the foreign nation wishes to extend or renew a bilateral fishery agreement, this can only be done under the terms of this legislation. [Secs. 201; 202] However, again, the legislation does not abrogate any existing bilateral agreement [Secs. 201; 202] They will simply be allowed to die a natural death. Frankly, under the comprehensive management program established in this legislation, the type of bilateral agreements that we have entered into in the past are inappropriate. [Sec. 202] Essentially, what they did was grant concessions to foreign nations in return for those nations agreeing to refrain from fishing for certain stocks near our shores during specific periods of time. Under the management regime [Sec. 102] embodied in H.R. 200 and the permit system, [Sec. 204] the questionable bilaterals of the past decade can be forgotten.

H.R. 200 attempts to deal with the complex question of Federal/State relations. [Sec. 306] It is an unfortunate fact that many of our coastal States have failed in the past to deal effectively with common resources. Although we have had for many years three marine fishery commissions under federally approved compacts, the commissions have been unsuccessful in achieving uniformity among the laws of their respective States. The fisheries of the United States in most cases are found off the shores of a number of States, and if a fishery is to be managed on an intelligent basis, the management plan must be the same. Conflicts between the States could well undermine our efforts to achieve the goals of this legislation. The legislation does, therefore, authorize the Secretary to override State management of a specific fishery within the territorial sea if he finds that the State has either taken an action or failed to act in such a way that will both substantially and adversely impact upon the management plan. [Sec. 306(b) (1)] A few comments about this are in order, since a number of States have expressed concern about Federal preemption.

First of all, the finding by the Secretary can only be made with respect to a specific fishery for which a management plan has been promulgated. [Sec. 306(b) (1)] There can be no blanket Federal override of State management. [Sec. 306(b) (1)] Second, the finding made by the Secretary is fully subject to the requirements of the Administrative Procedures Act, and any State which feels that it has been adversely affected has the full right of appeal. [Sec. 306(b) (1)] This is a very narrowly circumscribed Federal override provision. [Sec. 306

(b)(1)] The consideration under which the Secretary might exercise this authority will be extremely limited. [Sec. 306(b)(1)] I expect that since the management plans are promulgated by councils composed of local and State people, these same people will make every effort to insure that their States are in harmony with the management plans they have developed. [Sec. 302] and there will be few occasions when an override will become necessary. [Sec. 306(b)(1)]

H.R. 200, of course, does not attempt to encompass the management of highly migratory species such as tuna which the United States recognizes is only susceptible of international management. [Secs. 2(b)(2); 103] This is consistent with the U.S. negotiating position in the Law of the Sea Conference. [Sec. 2(c)(5)] The legislation does extend the management authority of the United States to anadromous species such as salmon [Secs. 2(b)(1)(B); 102(2)]—again, consistent with the U.S. negotiating position. [Sec. 2(c)(5)] Conservation measures dealing with anadromous species seaward of the 200-mile limit are subject, however, to negotiation with foreign nations under article 7 of the Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas. [Secs. 2(b)(1)(B); 102(2)]

The extension of the fisheries zone to the 200-mile limit will occur on July 1, 1976 [Sec. 104], following the next session of the Law of the Sea Conference. If a treaty is concluded, there is authority granted to the Secretary to conform the regulations of this act to the terms of the treaty. [Sec. 401] This leadtime is necessary also in order to establish the councils [Sec. 302] and to put into motion all of the management mechanism created by the act. [Secs. 301; 302; 303; 304; 305] This is an extremely comprehensive bill. A great deal of thought and time has gone into its preparation. It is not the result of hasty or ill-conceived action. It is the culmination of years of effort.

This morning, at the Republican Conference, several representatives of the Defense and State Departments spoke in opposition to this legislation. Mr. John Norton Moore, the head of the Inter-Agency Task Force on the Law of the Sea, summarized this opposition as follows:

1. The enactment of this legislation would be contrary to our fisheries interests;
2. It has been the policy of the United States to oppose unilateral actions for the past thirty years;
3. The objectives of H.R. 200 have already been embodied in the so-called "single negotiating text" and thus are, in effect, "in the bag".
4. Finally, Ambassador Moore announced a new two-year phased program of intensified efforts to negotiate with foreign nations to achieve the same goals embodied in H.R. 200.

The Department of Defense spokesmen concentrated on the possibility that other nations would, as he put it, retaliate against the United States by declaring 200-mile territorial seas, thus closing a third of the oceans waters to our ships and denying us transit through various international straits.

Ambassador Moore brought with him a chart showing the relative importance of our various fisheries to buttress his argument that this legislation would be contrary to our most important fisheries interests. The chart showed that the value of our shrimp fishery at \$200 million; our salmon fishery at \$120 million; and our tuna fishery at \$90 million.

In contrast with these figures, he reported that the value of our so-called coastal fisheries was only \$50 million. I assume that his dollar figures are correct; however, I have been advised that the overwhelming majority of the shrimp and the salmon are caught within 200 miles and, indeed, within 20 miles of the shores of the United States. The majority of U.S. shrimp fishermen do not fish off the coast of other nations. Of course, our catch off Mexico and Brazil is substantial—there is no question about that.

But to assert that the entire fishery is in jeopardy is sheer nonsense. So far as salmon is concerned, virtually all of the U.S. catch is taken close in-shore—well within 200 miles. It is quite true that the Japanese now refrain from fishing for salmon on the high seas under an agreement that has been in effect for many years. But in return for this agreement to abstain from salmon fishing, the Japanese are permitted to harvest tremendous quantities of crab and pollack off our coasts. Indeed, the most important Japanese fishery off the U.S. coast is the Alaska pollack. While the salmon which the Japanese catch is reexported to the United States, the pollack is consumed in Japan; it is one of the most important elements in the Japanese diet. Ambassador Moore would have us believe that the Japanese are willing to forego the pollack fishery and the crab fishery within 200 miles of Alaska under a permit system in order to engage in the high seas fishing for salmon and that the United States would then allow this salmon to be imported into our country. Ambassador Moore's comments in regard to tuna are equally questionable. He has suggested that our \$90 million catch of tuna and our very modern tuna fleet will be lost if H.R. 200 is enacted. However, that the single negotiating text of the Law of the Sea Conference fails in itself to protect our tuna industry in that it does not impose upon Ecuador and Peru any obligation to permit our tuna fishermen to come within 200 miles of those nations. There is, therefore, unfortunately, no sure basis for believing that our tuna industry will be protected by this treaty if and when it every materializes. I believe in fact that H.R. 200 will assist the majority of our fisheries. [Sec. 2]

So far as our 30-year policy of no unilateral action is concerned, it needs only to be noted that President Truman in 1945 by proclamation asserted U.S. jurisdiction over the mineral resources of our continental shelf as far seaward as they are capable of being exploited. This unilateral action was followed in 1953 with the Outer Continental Shelf Lands Act which set forth the mechanism for Federal licensing on the Outer Continental Shelf. In 1966, the Congress, over the strenuous objections of the State Department, unilaterally declared our present 9-mile contiguous fishery zone. So much for a 30-year policy.

Ambassador Moore says that our fisheries policy as embodied in the Law of the Sea "single negotiating text" is, and I quote, "in the bag". Again, however, he fails to state that nothing else is "in the bag"—and the consensus on a 200-mile economic zone can come unglued any time as nations begin negotiations with respect to transit rights, the deep seabed regime, pollution control, scientific research, and all the other issues in the Conference, upon which no consensus has yet been reached. Indeed, the consensus on a 200-mile economic zone is a captive that is being held out to us as a carrot in hopes that we will concede in the Law

of the Sea negotiations on a variety of other issues that are close to the hearts of the developing nations. The "single negotiating text" on the regime for the deep seabed is a panacea from the standpoint of the United States. Yet, the United States is going to be under intense pressure to cave in on this issue in order to preserve the consensus on the economic zone and in order to achieve our transit position that is of such concern to the Department of Defense. The United States has maintained throughout this Conference that we will accept only a package deal. Consequently, our acceptance of the consensus on a 200-mile economic zone is dependent upon achieving success in all other areas of the Law of the Sea Conference as well. Consequently, nothing will be "in the bag" until everything is "in the bag."

Ambassador Moore has suggested a new program to achieve by negotiation what we would do by H.R. 200. It is important to note that this was referred to as a 2-year phased program to achieve the results of H.R. 200. Why will this take 2 years of private negotiation outside the scope of the Law of the Sea Conference if, as Ambassador Moore would have us believe, the Law of the Sea Conference will be able to conclude its work in 1976? In this regard, much is made of the recent fortuitous negotiations regarding fisheries off our New England coast in ICNAF. That success was achieved simply because the Soviet Union and the other East European countries decided to support the United States.

Was this decision a result of their concern for the conservation of the resources? If so, how do we explain their lack of concern over the past decade. Clearly, this change of heart is the result of their anticipation that the United States now has the resolve to take action. If we fail to act, I doubt that we will see any more of this new Russian spirit of conciliation at the next meeting of ICNAF in 1976.

I sympathize with the position of the Department of Defense. Even if a 12-mile territorial sea is adopted as a result of the Law of the Sea Conference, a number of very important straits may be affected. Again, however, the "single negotiating text" does not resolve the issue in our favor, but leaves it totally open for further negotiation. The only way which H.R. 200 will adversely affect the Defense Department position will be if all other nations in retaliation declare broad territorial seas and abandon the Conference. No reasoned arguments are given, however, to substantiate this fear that the Conference will collapse. Why will all other nations retaliate against the United States for taking these steps today? Will not the rest of the world perceive that it is in their collective best interest to remain in the Conference and attempt to reach a consensus on the seabed regime and the other vital issues? I question if the position of the Defense Department gives much credit to the intelligence of the developing nations of the world.

Finally, Mr. Chairman, I would like to comment upon the argument that the action we propose to take today is in violation of international law. This argument rests principally upon the decision of the International Court of Justice in the Icelandic Case wherein the Court ruled that Iceland could not assert its 50-mile fisheries zone against the United Kingdom. Those who cite this decision fail to point out the reason the Court ruled against Iceland. The judgment of the court was

based upon the fact that Iceland, prior to extending its fisheries zone, had by treaty agreed to negotiate with the United Kingdom over fishing rights of British vessels that had fished off Iceland for more than half a century. Given Iceland's violation of this treaty commitment, the Court had no choice but to rule in favor of the United Kingdom. Each judge of the Court rendered an opinion. Depending upon which judge one chooses, you can find arguments on every side of the issue. A consistent thread runs through the dicta of most of the judges and that is a coastal State may take action to protect the fisheries upon which it is particularly dependent, provided it gives due recognition of the legitimate interests of other nations that have fished off the coastal State's shores—and that is precisely what H.R. 200 does. [Sec. 201(e)(1)]

Mr. Chairman, I apologize for taking so long to discuss this bill. It is however, extremely important and merits full consideration. I do not take lightly the concern of the administration. I firmly believe, however, that on balance, we are acting in a responsible manner.

Mr. Chairman, I yield back the balance of my time.

Mr. STUDDS. Mr. Chairman, I want to express my very real and strong personal gratitude to the chairman of this committee, the gentlewoman from Missouri (Mrs. Sullivan); to the chairman of the subcommittee, the gentleman from California (Mr. Leggett); and to the ranking minority member, the gentleman from Michigan (Mr. Ruppe); and, if this does not sound too trite, to all the members of the committee who have approached this legislation in about as non-partisan a manner as I think any issue can possibly be approached.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, I would like to acknowledge that this bill would not be on the floor today if it were not for the gentleman in the well. He has been the sparkplug for my term as chairman of the subcommittee and he has worked to perfect the bill in its present form.

Mr. STUDDS. I thank the gentleman.

I want to say this for those Members who are really echoing the words of the State Department, that the chairman of our committee (Mrs. Sullivan), over the very strong objections of this Member in the well and a great many others, for 2 years insisted, in what seems in retrospect an extremely responsible fashion, that we wait and give the Law of the Sea a chance. Over my objections our committee did wait throughout 1973, and over my objections our committee did wait throughout 1974.

I do not think that the Department of State or anyone else can suggest that the gentlewoman from Missouri has been anything other than responsible to a fault with respect to adhering to the wishes of those who said that the Law of the Sea could solve this problem. There is no Member of this House who would not prefer to see the problem resolved by international agreement, no one, and we have waited and we have waited and perhaps some day it will be resolved in this fashion.

Mr. Chairman, as the original sponsor of H.R. 200, I speak in favor of its passage. Since I first introduced the bill in June of 1973, the

House Merchant Marine and Fisheries Committee has held almost continuous hearings on the bill, the need for urgent conservation measures to prevent destruction of our marine fisheries [Sec. 2], and on the possible international implications of U.S. action. The committee's consideration of the issues involved was most deliberate and exhaustive, and the committee wrote its substitute only after 2 years of extensive hearings and study.

The need for this bill, Mr. Chairman, is urgent. [Sec. 2]

World fish landings have tripled since 1938. U.S. landings during the same period have remained almost steady, increasing from 4.3 billion pounds in 1938, to only 4.7 billion pounds in 1973. To meet the needs for increased fish consumption in the United States, imports of fish more than tripled between 1959 and 1973. These increased imports led to a 1972 balance of payments deficit of \$1.3 billion in fish and fisheries products, up 318 percent over 1960. A recent study conducted for the Commerce Department showed that this trend will continue unless there is a major change in Federal policy. [Sec. 2]

Foreign fishing fleets began to work the fishing grounds off our shores in earnest in the 1960's, and have since then decimated the populations of some fish species, driving them to commercial extinction. The continued foreign fishing efforts threaten the commercial extinction of still more species in coming years. In addition to exciting the serious concern of conservationists and commercial and sports fishermen, this depletion of fish stocks threaten to destroy a protein-rich food source which should be saved to help feed hungry people throughout the world. If properly managed as a renewable resource, these ocean fisheries can supply large amounts of protein-rich food each year. I believe it would be immoral for the Government of the United States to stand idly by, and by so doing allow this food resource to be destroyed. [Sec. 2]

I believe the Georges Bank fishing grounds off New England, which are regulated by the International Convention for the Northwest Atlantic Fisheries—ICNAF—provide an obvious and typical example of the failure of current international agreements to meet this problem. Before 1960, Georges Bank was fished almost exclusively by U.S. vessels. In 1961 the Soviet Union entered this fishery, and by 1965 the Soviet catch off our east coast was over half a million tons, far exceeding our own catch. In June 1967, the ICNAF treaty was signed. By 1970 additional countries had joined the fishery and the total foreign catch off our east coast had grown to more than 1 million tons, far above the allowable harvest calculated by fisheries biologists. The U.S. share of the fish catch off our east coast declined from 92.9 percent in 1960 to 50 percent in 1974. In the Georges Bank and southern New England areas regulated by ICNAF, the U.S. share of the catch declined, respectively, from 88 percent and 100 percent in 1960, to 10.4 percent and 11.8 percent in 1972. Haddock had become almost commercially extinct, and other species were severely threatened.

The executive branch is thoroughly aware of the depletion of our coastal fish stocks by foreign fleets. In a June 6, 1973 letter for the records of the House Merchant Marine and Fisheries Committee, John Norton Moore, speaking for the State Department, stated that—

The Executive Branch appreciates the need for greater control over fisheries off our coasts.

In the State Department's May 1974 official report on fisheries jurisdiction extension legislation, the Department said:

We recognize that the coastal fishermen of the United States have encountered severe problems in recent years and that overfishing for some species has caused depletion of the stocks involved. Accordingly, we are sympathetic with the need for a solution to the genuine problems which have prompted this bill.

The report went on to admit that—

Recognizing that the Law of the Sea Conference will take time to complete its work, and that there will be additional delays pending ratification, there is indeed an interim problem with respect to our coastal fisheries.

The Department then announced steps "to enhance the protection of our coastal stocks and to alleviate the problems of our coastal fishermen" until a Law of the Sea Treaty becomes effective. These steps consisted primarily of "working to strengthen both bilateral and multilateral agreements with nations whose nationals conduct fishing operations off our coast."

In support of hopes for this worthy goal, the Department cited a new ICNAF agreement that the catch limits for 1976 would be established at levels low enough to allow the fish stocks to recover to the maximum sustainable yield level. That fine-sounding policy statement by ICNAF was ignored at the annual meeting this spring, and the United States had to formally object to the quota for the taking of finfish off the New England and mid-Atlantic coasts next year, "on the basis that the allowable catch amount is too high and threatens future productivity." ICNAF finally agreed at its special meeting in Montreal last month to reverse its decision and fulfill its promise—but it did so only after one of the most concerted diplomatic efforts the United States has ever undertaken for a fisheries negotiation, including a personal letter from President Ford to the meeting. It is unrealistic to expect that this same kind of concerted diplomatic effort will be conducted for every fishery negotiation in which the United States is involved during the next few years. Consequently, I believe that it is erroneous to use the result of this massive diplomatic effort to predict success in future negotiations on bilateral and multilateral fisheries agreements.

Mr. Chairman, the rape of the fisheries resources off our coasts is still continuing. While a few modest gains have been made in the last 2 years for particular species, and in increasing the U.S. share of the dwindling overall supplies of fish in specific areas, the basic problem remains the same. The State Department efforts to increase the effectiveness of our bilateral and multilateral fisheries agreements have succeeded only in making minimal changes, not in reversing the severe and continuing depletion of fish. The crisis still exists, and is getting more serious as the months and years pass by.

When Under Secretary Maw testified before the Senate Commerce Committee on September 19, he announced a continuation of efforts to increase the effectiveness of the bilateral and multilateral treaties. This is the same effort the State Department has been engaged in for the last 2 years, with minimal effect. The crisis is real. It will not, in my opinion, wait for the diplomats to complete their meetings and negotiations many years in the future. Consequently, I believe the United States must act, in as responsible a way as possible, to unilaterally end

the foreign exploitation of the fisheries off our coasts. It is my conclusion that the only way we can get off dead center and protect this food resource is to act promptly and pass H.R. 200 as reported by the Committee on Merchant Marine and Fisheries. [Sec. 2]

Mr. Chairman, the State Department has urged the Congress to delay passage of H.R. 200 until after conclusion of the Law of the Sea meeting in New York next spring. They have pressed similar requests, coupled with predictions of a completed treaty at the coming session, for each session since the late 1973 preparatory meetings in New York. Following the last session of the Law of the Sea Conference in Geneva, John Norton Moore, who has heretofore been the administration spokesman to the Congress on H.R. 200, finally admitted that these rosy predictions which precede each session are just that—

In previous testimony before this Committee, I have indicated that there were reasonable prospects of adhering to the General Assembly schedule and completing the work of the Conference during 1975 . . . I regret to report to you that I was wrong and that this schedule was overly optimistic. It is now clear that the negotiations cannot be completed before mid 1976 at the earliest and at this time it is not clear whether or not a treaty can be completed during 1976.

At the oversight hearing held by the International Relations Committee on September 24, Under Secretary of State Maw stated in response to a question that he could not say whether or not the Law of the Sea Conference would conclude negotiation of a treaty within 3 to 5 years. If the United States were to wait that long for truly effective fish conservation and management authority, the continuing foreign fishing would have destroyed the fish, and we would be guilty of standing idly by while an important world food source was destroyed. [Sec. 2]

While the most controversial feature of H.R. 200 is its provision for extension of U.S. fisheries conservation and management jurisdiction to 200 miles from our coast [Sec. 101], effective July 1, 1976 [Sec. 104], the bill also establishes a structure of regional fisheries management councils [Sec. 302] charged with responsibility for adopting conservation and management plans for each depleted or threatened species of fish. [Secs. 302; 304] The regional councils would be created immediately after passage of the bill [Sec. 302], and the adoption of conservation rules applying to both U.S. and foreign fishing [Secs. 302; 303; 304; 305] would be well underway before the July 1, 1976 [Sec. 104], extension of U.S. fisheries jurisdiction under the bill.

H.R. 200 does not abrogate or violate U.S. obligations under existing treaties. These treaties will continue to be honored until their legal termination, [Secs. 201; 202] for their renegotiation as provided for in section 202 of the bill. [Sec. 202]

Mr. Chairman, the United States has long been a leader in establishing international law with respect to the oceans, and has taken previous unilateral actions. President Truman's unilateral proclamation of 1945 that the United States would exercise jurisdiction over the living and mineral resources on and under the Continental Shelf was not codified into international law until the 1958 Law of the Sea Conference concluded its meetings some 13 years later. The extension of United States fisheries jurisdiction by the Congress from 3 to 12 miles in 1966 was also a unilateral action, and is still unrecognized in codified international law. The United States does arrest foreign fishing vessels

which violate our 12-mile fisheries jurisdiction, and these arrests have not led to international confrontations.

The current trend in international law, exemplified by the almost universal acceptance by countries at the Law of the Sea Conference, is toward a 200-mile economic or fishing zone for coastal countries. By passing H.R. 200, the United States would not be reversing its long-standing policy, but would be continuing its tradition of recognizing trends in international law regarding conservation and management of fisheries resources, and of acting in accordance with those trends to protect the living resources of the sea. [Sec. 2]

H.R. 200 is explicitly a interim measure, which would apply only until the Law of the Sea Conference can complete an acceptable treaty. [Sec. 401] That Conference is basically agreed on the fisheries provisions of such a treaty, but is currently stalemated over deep-sea mining and other issues. It is not possible to predict that the Conference will complete an acceptable treaty within the near future, or even that it will ever complete such a treaty. Passage of H.R. 200, which is consistent with the consensus at the Conference on fisheries jurisdiction, may provide the needed stimulus toward completion of negotiations on the other issues. [Sec. 2(c)(5)] I believe the United States must take interim action now to stop the destruction of its coastal fisheries [Sec. 401], consistent with the developing principles of international law. [Sec. 2]

Mr. Chairman, H.R. 200 has wide-spread support through the United States. Among the national organizations endorsing H.R. 200 are the AFL-CIO, Friends of the Earth, the Environmental Policy Center, National Fisheries Institute, National Federation of Fishermen, National Coalition for Marine Conservation, American League of Anglers, and the Society for Animal Protective Legislation. Additional organizations which support the 200-mile limit include the Izaak Walton League, National Wildlife Federation, Sport Fishing Institute, American Fishing Tackle Manufacturers Association, National Sporting Goods Association, Emergency Committee to Save America's Marine Resources, National Restaurant Association, Defenders of Wildlife, Animal Protection Institute, the Humane Society of the United States, Fund for Animals, the International Game Fish Association, National Coalition of Patriotic Societies, and the New England Governor's Conference. All of these organizations recognize the need to act immediately to protect the fish off our coasts from elimination by foreign fleets.

The Congress expressed its concern officially in late 1973 by passing Senate Concurrent Resolution 11, which states that—

It is the policy of the Congress that our fishing industry be afforded all support necessary to have it strengthened, and all steps taken to provide adequate protection for our coastal fisheries against excessive foreign fishing, and further that the Congress is fully prepared to act immediately to provide interim measures to conserve overfished stocks and to protect our domestic fishing industry.

The House version of that resolution, House Concurrent Resolution 173, which contained this same language, passed on December 4, 1973, by a unanimous 405 to 0 record vote. Passage of that resolution made it the policy of the Congress to take action to protect our coastal fisheries. H.R. 200 will provide that protection. H.R. 200 is consistent with the U.S. negotiating position at the Law of the Sea Conference. H.R. 200 is consistent with the evolving trend of international law, which is embodied in the emerging consensus at the Law of the Sea Conference.

H.R. 200 will prevent destruction of an important source of protein-rich food. H.R. 200 is a vitally needed conservation measure. [Sec. 2] I support and urge its passage.

Mr. ECKHARDT. Mr. Chairman, would the gentleman accept an amendment to the bill providing that nothing in this bill violates the customary law of the high seas or of a treaty that shall be in effect?

Mr. STUBBS. This gentleman will be delighted to accept that if we can agree on the definition of customary law.

Mr. ECKHARDT. Would the gentleman accept that amendment?

Mr. STUBBS. Not until we know what we are talking about.

Mr. ECKHARDT. If we leave out "customary law"?

Mr. STUBBS. There is no clear existing international law of the sea. The claims of nations range from 3 to 200 miles.

The gentleman from California (Mr. Don H. Clausen), through whose courtesy we have the bill number (H.R. 200), made the observation quite rightly that all the arguments have been made.

Finally, then, let me say this.

I would ask the Members of this House, is it really more irresponsible for us to wait until next year or 5 or 6 years for ratification of an international agreement, or to act now on an issue which is basically one of food? If we heed the advice of the Department of State and we wait for an international agreement, we may find ourselves with the finest agreement in the history of international negotiations, but it will also be an entirely academic one, because by the time an agreement can be negotiated and ratified and come into effect, there will be no fish—no fish in the major coastal areas of this Nation for it to protect.

I would suggest that in a world where people are starving to death, for this Nation to stand by and do nothing and to see the largest single sources of protein on the face of the Earth permanently depleted because we, at the urging of the Department of State, chose to be cautious. I suggest that in the long run of history that would probably be the most irresponsible act of all.

Mr. HUGHES. Mr. Chairman, first of all I want to thank the gentleman for yielding to me and to commend him for a very fine statement. He has taken the leadership from the very moment he arrived in Congress, and I think my colleague has shattered beyond any question all the balleyhoo concerning international law and treaties and the suggestions by the State Department that we wait.

Speaking for my own district, my fishing industry is practically destroyed, and one of the major factors is the manner in which the foreign trawlers have just raked our shores of everything in sight. I have just one question which I might pose to the gentleman dealing with what is meant by "highly migratory fish." [Sec. 3(14)]

I had a question concerning a few species, and I wonder if I could address this question to the Chairman or to the gentleman in the well. I want to know whether, for instance, mackerel, Spanish mackerel and bluefish would fall into the category of nonhighly migratory fish. [Sec. 3(14)]

Mr. STUBBS. Bluefish are not highly migratory, and would therefore be covered by the bill. There are several different kinds of mackerels. Frigate mackerels are highly migratory, and are so listed on page 48 of the committee report. All other mackerels, including Spanish

mackerel, are not highly migratory and would be covered by the bill. **[Sec. 3(14)]**

Mr. HUGHES. I thank the gentleman.

Mr. STUDDS. Mr. Chairman, Members of the Committee, I think we have said it all. The hour is late. We have work to do, and I would hope that when we go home on this recess we can say to the people of this country that we remembered what we said 2 years ago in this body when we passed Senate Concurrent Resolution 11. The Congress and this House 2 years ago said that, "It is the opinion of the Congress that all steps be taken to provide adequate protection for our coastal fisheries against excessive foreign fishing, and that the Congress is fully prepared to act immediately **[Sec. 2]** to provide interim measures to provide full assistance and protection for our fishing industry." **[Sec. 401]**

Two years, even for this Congress, is time enough, and I hope that we will not have any further explaining to do on this recess.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield for two questions?

Mr. STUDDS. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, do I understand the gentleman to urge that this law, if enacted, will be in accordance with international law?

Mr. STUDDS. It is my contention that we are not, in this legislation, violating international law.

Mr. McCLOSKEY. The gentleman is not violating international law. Is he then stating that this is in accordance with international law?

Mr. STUDDS. I would assume that the gentleman himself is a lawyer and would probably draw that implication.

Mr. McCLOSKEY. It is a simple question. It can be answered yes or no.

Mr. STUDDS. It can be answered yes or no, I say to the gentleman—

Mr. McCLOSKEY. Is it in accordance with international law?

Mr. STUDDS. I say to the gentleman that it can only be answered "Yes" or "No" if the two people engaging in the colloquy agree on the definition of international law at the moment.

Mr. McCLOSKEY. The gentleman cannot answer the question, is that what I understand his answer to be?

Mr. STUDDS. I will repeat the argument, if the gentleman wishes.

Mr. McCLOSKEY. My second question is, Is it the gentleman's contention that this bill, if enacted into law, will not violate any treaty we have with other nations? **[Secs. 201; 202]**

Mr. STUDDS. It is.

Mr. McCLOSKEY. It is the gentleman's contention that it will not violate any treaty with the Soviets, the Japanese and any other nation? **[Secs. 201; 202]**

Mr. STUDDS. Yes.

Mr. McCLOSKEY. If that should be demonstrated to the contrary, with the well-known respect of the gentleman for the law, would he take the bill off the calendar? **[Secs. 201; 202]**

Mr. STUDDS. We have spent 3 very full years in examining this matter.

Mr. McCLOSKEY. The gentleman can concede that the law should not be enacted?

Mr. STUDDS. If the gentleman can convince me of that.

Mr. McCLOSKEY. I can, and I mean to offer an amendment that would make any dispute arising under this law subject to International Court of Justice.

Mr. STUDDS. The gentleman has an extraordinary way with logic, may I say. I would assume that whether or not such a provision is included, this Nation would act with respect to the International Court in the way in which it normally does.

May I say to the gentleman that he cited the International Court's decision with respect to the United Kingdom and Iceland. That was a very parochial decision dealing with a particular instance. The gentleman neglected to point out that a key finding of the Court in deciding in favor of the United Kingdom and against Iceland was the fact that the United Kingdom had been fishing for centuries off the coast of Iceland and had established a historic pattern, whereas all the Soviet and Japanese fleets have been off the coast of this Nation for only 15 years.

Mr. McCLOSKEY. What about our fishing off the 200-mile limits of other nations? Have we not been fishing just recently off the coast of Equador, Brazil, and Peru?

Mr. STUDDS. The gentleman well knows that we have exempted from the bill the highly migratory species. [Sec. 103]

Mr. McCLOSKEY. That is a nice gesture on our part, to say that we are exempting some species of fish from those territorial waters or other waters, but we will include all territories. [Secs. 101; 102; 103]

Mr. STUDDS. We did not dream that up, I will say to the gentleman. That is not only the negotiating position of the United States at the Law of the Sea Conference, it is the consensus of the single negotiating text at the Conference.

Mr. LEGGETT. I thank the gentleman for yielding. Considering the fact that the gentleman from California wants us to submit to the so-called international court of justice, specifically, in this legislation, to bring us under international law, would it not be obvious that if we are under international law we would not have to make a statement that we are objecting to an international court, No. 1; and, No. 2, if there is an international law on the 200-mile limit, why is it that no case has been brought to the bar with respect to the 10-year-old legislation of all of the Latin American and African states?

Mr. STUDDS. I would agree with the gentleman. And may I point out that the 12-mile jurisdiction of this Nation, fisheries jurisdiction, to which the gentleman from California (Mr. Van Deerlin) referred during the debate on the rule as "our time honored 12-mile limit," is precisely 9 years old and came into existence by the unilateral action of this Congress 9 years ago. Although I was not here, I cannot imagine that the Department of State was not saying exactly the same thing then as they are saying now. And may I say, furthermore, to the gentleman that, at worst, international law is arguable; and if it is arguable, for once might I plead with this Congress to act on behalf of the United States and not to bend over backwards in efforts to make that law read that we should not act. We have done it before. There is ample precedent for it. Existing international law is totally undefined, and our action is well within the limits of international law.

Mr. ZABLOCKI. Certainly, I appreciate the gentleman's sincerity and his concern, and we all join in his concern for the best interests of the fishing industry in this country. But will not the gentleman agree that this legislation does have serious foreign policy implications?

Mr. STUDDS. If the distinguished member of the Committee on International Relations is endeavoring to have me concede that his committee has jurisdiction, I do not believe we have enough time for him to do that.

Mr. ZABLOCKI. I merely asked whether there is indeed serious foreign policy implications in it.

Mr. STUDDS. There are clearly foreign policy implications.

Mr. ZABLOCKI. Would it not be preferable if this legislation were sequentially referred to both committees?

Mr. STUDDS. It not only would not have been preferable, it would be in violation of the rules of this House, clearly.

Mr. Chairman, I urge the adoption of the bill.

Mr. ZABLOCKI. It would take the rest of the afternoon to discuss that issue.

Mr. Chairman, I am compelled to oppose the bill, H.R. 200. This legislation contains serious and far-reaching foreign policy implications. The measure should have been sequentially referred to the House Committee on International Relations. H.R. 200, in both its language and implications, impinges upon the committee's jurisdiction over relations with foreign countries generally, the establishment of boundary lines between the United States and foreign nations, international conferences and congresses, and the United Nations organizations.

Sequential referral was denied the International Relations Committee therefore pursuant to rule X, clause 3(d) of the rules of the House, the committee held hearings and met in open sessions to consider an oversight report on the foreign policy implications of H.R. 200. That report is in the printing process and denied to this body because of the unnecessary hurried consideration today by this House.

In brief, Mr. Chairman, the majority view—15 aye to 5 nay, 1 present—of our committee as expressed in the report is that a unilateral extension of the U.S. fishing zone from 12 to 200 miles as required in H.R. 200 would have serious foreign policy implications for the United States.

The report stresses the following points:

The broad range of U.S. ocean interest can best be protected by international agreements, not by unilateral actions such as those required in H.R. 200.

H.R. 200 would damage U.S. objectives at the Law of the Sea Conference including our efforts to obtain special agreements for salmon and for distant-water fisheries such as tuna and shrimp. With respect to distant-water fisheries, U.S. nationals conduct a significant amount of fishing off the coasts of 17 foreign countries—none of which claim a 200-mile jurisdiction.

There are alternative means now in motion for achieving a transition to a 200-mile coastal economic zone by international agreements, not by unilateral action. In addition to the Law of the Sea Conference, the President has initiated efforts to negotiate an interim 200-mile zone under existing agreements.

Unilateral action will adversely affect other important U.S. foreign policy interests including our vital need to insure freedom of commercial navigation for transport of such crucial commodities as oil.

H.R. 200 could very well provoke retaliatory action by other nations.

The enforcement measures contemplated by the bill are expensive [Sec. 311]—more than \$640 million over the next 5-year period according to the Merchant Marine and Fisheries Committee report [Sec. 406]—and, by the admission of one of the bill's principal supporters, unenforceable for all practical purposes. [Sec. 311]

The bill is inconsistent with longstanding U.S. policy in opposition to unilateral ocean claims. If this bill is enacted, the United States would become the first major power to make such a claim.

H.R. 200 would violate or disrupt U.S. obligations with respect to six multilateral treaties in 11 bilateral treaties involving 18 other countries.

H.R. 200 is not an interim measure which would be supplanted by a new law of the sea treaty as claimed by the bill's supporters. [Sec. 401]

Section 205 of the bill gives the Secretary of Commerce discretionary—not mandatory—authority to conform the proposed legislation to any future law of the sea treaty. [Sec. 401] There is no assurance that the legislation, if enacted, would be superseded by a new multilateral convention on the seas. [Sec. 401]

Section 203 of the bill requires the Secretary of State to undertake, within 90 days of enactment, negotiations with foreign nations off whose coast U.S. vessels fish in order to obtain agreements permitting access of U.S. vessels. [Sec. 202]

If such a nation refuses to negotiate or violates such an agreement, an embargo on all seafood products of that nation is to be invoked. [Sec. 205]

The embargo would be mandatory with no waiver provision, thus tying the hands of the executive even in cases of serious foreign relations problems. [Sec. 205]

The bill also assumes the Fishermen's Protective Act would remain applicable to some types of seizures within 200 miles of other countries. [Sec. 403]

Implementation of this provision would be seen as the height of hypocrisy by the rest of the world. If Congress finds, by enacting H.R. 200, that there is no current international law regarding fisheries in the 200-mile zone, what is the legal basis for the United States to assert that a claim to tuna in the zone is legal? [Sec. 403] We cannot have it both ways.

Mr. Chairman, in this regard the Committee on International Relations has received statements from the American Tunaboat Association, the Tuna Research Foundation, and the National Shrimp Congress—all of these organizations strenuously oppose H.R. 200.

In addition to the serious foreign policy questions raised by H.R. 200, the bill contains other imperfections. For example, the Federal Government will be incapable of immediately implementing the enforcement provisions and it is unclear whether they could ever be fully enforced. [Sec. 311]

Moreover, as reflected in the Merchant Marine Committee's rule request the bill contains provisions which violate the germaneness rule and the appropriations process. [Sec. 406]

Finally, the bill does not contain any provisions for fisheries development which would seem to be a priority step at this point. [Sec. 2]

For all of these reasons, Mr. Chairman, I urge a "no" vote on H.R. 200.

Mr. SPENCE. Mr. Chairman, the list of people who have worked so hard to achieve enactment of H.R. 200 is virtually endless. It is difficult to single out a few because there are so many, but we owe a special thanks to Fred Phebus, who was secretary-manager of the Fisherman's Marketing Association in Eureka, Calif., during the time we considered the 12-mile limit.

It was Mr. Phebus and I who suggested 200 miles to the Senate Committee at that time.

Dennis Grotting of Eureka and Bill Grader of Fort Bragg have followed up on this issue with great diligence in advancing the views of the fishermen they represent.

And, too, Mr. Chairman, one of the most active groups in Northern California in support of H.R. 200 has been the fishermen's wives associations who have been totally dedicated to this important goal. Their continued efforts have helped bring this bill to where it is today.

At this point in the Record, I would like to read an editorial from the Advocate-News in Fort Bragg, Calif. I believe it succinctly sums up clearly the need for H.R. 200.

The article follows:

200-MILE LIMIT NECESSARY

The Law of the Sea conference concluded its session in Geneva two weeks ago, and so far as North Coast fishermen are concerned, it was a flop.

Each year larger foreign fishing fleets operate off the coast of Northern California, Washington, Oregon and Alaska.

The fishing capacity of the foreign fleets is much greater than our own, and though they fish for hake which has no commercial value here, the very size of their take has become a source of increasing concern to the local fishing industry since it can seriously alter the biological balance of the sea.

Further, three weeks ago, two Polish and six Soviet ships were observed taking what our government termed "more than incidental amounts of rock fish," and our government issued a warning to those two nations regarding violations of fishing agreements.

Our own Coast Guard has stepped up its program of enforcement of the agreement between the U.S. and U.S.S.R. which allows the Russians to fish for hake.

Nevertheless, more needs to be done by our government to protect the fisheries beyond our jurisdictional limits off this coast.

Since diplomacy has failed in the Law of the Sea conference, we felt it is time for our Congress to take unilateral action.

Congressman Don Clausen has proposed legislation which the Congress should pass and the President should sign.

First, it would extend our territorial limits from three miles to twelve (the present jurisdictional limit) and establish a 200 mile Fisheries and Marine Resources Conservation Zone off our coast where the U.S. could regulate fishing. This would include the setting of seasons, net sizes, etc., but not interfere with nor regulate passage of foreign ships for any other purposes.

Second, it would assert congressional intent that jurisdiction over the taking of anadromous fish, such as salmon, belongs to the nation where the fish spawn; that jurisdiction over coastal species, bottom fish, belongs to the nation off whose shores the fish are taken; and that regulation of the taking of palagic fish, migratory species such as tuna, be set by international agreement.

The administration opposes such unilateral action because the State Department holds the position that all matters regarding the world's fisheries should be handled through bilateral or multilateral agreements.

But that position isn't getting the job done.

We believe that Congressman Clausen's bill not only does the job necessary but does so in a way that all fishing nations can live with it.

We urge the Congress to pass the bill and President Ford to sign it.

We further urge that the Congress provide the necessary funds for the Coast Guard for the vessels and crews to properly enforce the law in a 200 mile zone. The matter is urgent and the time to act is now.

Mr. ROGERS. Mr. Chairman, some concern has been expressed regarding the effect of this bill upon the States' regulation of fisheries within 3 miles of their shores. [Sec. 306]

I would like to say that I, as well as the other members of the committee, were well aware of these concerns, and the bill has been drafted accordingly. As drafted, the bill emphasizes the committee's intent that a State's jurisdiction not be diminished [Sec. 306(a)], except in those rare instances where it is found that with respect to a species which ranges both within and without the territorial sea adjacent to a State, a State has acted or failed to act in such a way as to substantially and adversely affect a fishery management plan. [Sec. 306(b)]

I would emphasize that it is my understanding that this would be a most rare occurrence at most.

Furthermore, it is expected that the management plan will have been developed by the regional council, with the participation of all States concerned. [Sec. 302]

I am satisfied that this legislation, while containing safeguards to insure the effectiveness of fishery management plans, achieves the intent of leaving State jurisdiction unimpaired to the maximum extent possible. [Sec. 306]

Mrs. MINK. Mr. Chairman, I rise in opposition to H.R. 200, the bill which would extend the United States exclusive fisheries zone from 12 to 200 miles. The intent of the legislation—protection of certain species of fish and of the domestic fishing industry—is a laudable aim. [Sec. 2] But the question before us at this time must be viewed in a larger context, in the total picture of other actions by this country and by international negotiators at the Law of the Sea Conference which resumes its work in a few short months. The legislation on which we are asked to vote today is ill-timed, extremely costly, and very likely unmanageable.

Extension of our fisheries zone to 200 miles would have obvious benefits for my State of Hawaii, a chain of islands which extends a full 1,300 miles from end to end. Designating the oceans surrounding this archipelago as waters to be under the jurisdiction of Hawaii would create one of the biggest fishing grounds in any ocean, a tremendously significant addition to our State's fishery potential. [Sec. 101]

Coming from an island area, where we all live close to the sea, I have long been interested in the matter of ocean resources and development of the riches which these waters hold for mankind. As the United Nations convened the Third International Law of the Sea Conference several years ago, this interest heightened when I realized the significance this had for Hawaii and for all ocean-bordering states. Third world nations—the group of 77—pushed for a 200-mile economic zone

wherein countries bordering on the oceans could lay claim out to 200 miles on any and all of the economic resources in the water as well as on the ocean bottom.

Obviously, such an effort to preserve the rights of ocean-bordering countries and, hopefully, island states, to the minerals that might be harvested out of the ocean within the 200-mile zone, to establish internationally recognized property rights to these resources, is a tremendously important matter. And the fact of the matter is that this concept is one of the very few such issues at the Law of the Sea Conference to which nearly all nations are agreed.

As the Geneva session of the Conference adjourned, the chairmen of the three committees in which issues were being developed, drafted working texts for the consideration of the delegates in the months before the New York meetings of the Conference are called to order in March of next year. The second committee, addressing questions of the Territorial Sea and Contiguous Zones, has before it a single negotiating text, which, in part III, sets forth the concept of the 200-mile economic zone. Article 45 of this text says, in part:

In an area beyond and adjacent to its territorial sea, described as the exclusive economic zone, the coastal State has:

- (a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether renewable or non-renewable, of the bed and subsoil and the superadjacent waters;
- (b) exclusive rights and jurisdiction with regard to the establishment and use of artificial islands, installations and structures;
- (c) exclusive jurisdiction with regard to:
 - (i) other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds; and
 - (ii) scientific research;
- (d) jurisdiction with regard to the preservation of the marine environment, including pollution control and abatement;
- (e) other rights and duties provided for in the present Convention.

We see, Mr. Chairman, the draft language of a major international agreement on this matter of fisheries and other resource conservation before us and hope and expect that final agreement on this issue can be reached this coming spring.

The unilateral action which H.R. 200 seeks could well jeopardize the consummation of such an international treaty. And for what immediate gain are we willing to risk the loss of such an international agreement? [Sec. 2]

We are faced with a highly popular plea from supporters of this legislation: Let us keep out the foreigners; pass a law to keep foreign fishing fleets from taking "our" fish. [Sec. 2] Yet consider what happens when U.S. vessels are captured off the coasts of another country. The popular outcry then is for calling in the "gunboats" to save our fishermen.

The bill we consider today is a highly provocative one. Unilateral action by the United States to throw up this barrier to foreign fishing fleets at this time is an open invitation to other nations to do the same. We risk the probability of further exacerbating our already difficult relations with South America, or, in the alternative, totally eliminating American ships from fishing in the rich tuna grounds off the South American coast.

The largest fish processing firm operating in my State of Hawaii is opposed to any unilateral extension of the fisheries zone by the

United States at this time. Bumble Bee Seafoods, a large and diversified fish processor owned by Castle and Cooke of Hawaii, told me that while it stood to gain some in the area of salmon fishing, it stood to lose a great deal in its shrimp and tuna operations. On balance, it was their conclusion that this legislation ought to be opposed, on the grounds that there was more to be lost than gained in the precipitous move proposed in this bill, and that the best solution for resolving fisheries jurisdictional and conservation issues lay in the international forum available in the Law of the Sea Conference. I agree that no rational enforcement of the fisheries zone jurisdiction is possible if this legislation becomes effective.

The question of our international integrity is at stake in this decision. In the interest of our future ability to be of some persuasion at the United Nations Law of the Sea Conference, I urge this House to reject this bill. The next session of the Conference will convene in New York City on March 29, 1976. It would seem to me to be entirely adequate for this Congress to express its endorsement of the 200-mile zone concept by a resolution. Such action by the Congress would serve to strengthen the U.S. position at the Conference and certainly no offense could be taken at that kind of assertion.

But a unilateral declaration of ownership of 200 miles of off-shore fishing grounds [Sec. 101] by statute is contrary to international law of the high seas and existing international maritime policy. Unless we abide by the law, how can we expect any other nation to do so?

I ask the Members of this House to look beyond the immediate horizon, to forego the promise of an illusory gain and, instead consider our broader national responsibility and the long-range benefits the resolution of these questions in an international forum could bring to all of us and to the whole world. I, therefore, urge a vote against H.R. 200.

Thank you, Mr. Chairman.

Mr. HUGHES. Mr. Chairman, today the House debates a most important piece of legislation, H.R. 200, the Marine Fisheries Conservation Act. Enactment of this legislation is absolutely vital to protect our coastal fisheries. Not only have I cosponsored this bill introduced by my esteemed colleague, the Honorable Gerry E. Studds, but I have also testified on its behalf in June of 1974 before the Merchant Marine and Fisheries Subcommittee on Fisheries and Wildlife Conservation in Toms River, N.J., and more recently on March 10, 1975.

If we do not move decisively today to regain control of our fish resources off our own coasts then we just might not have any commercial fish stock worth saving when and if an international accord is reached at some future Law of the Sea Conference. [Sec. 2]

But getting 140 or more nations to honor a series of complex agreements of which fishing is but one important consideration may be more than any Law of the Sea Conference can resolve in the foreseeable future.

In ever increasing number, foreign trawlers have been methodically decimating fish stock in both Atlantic and Pacific waters. It is a mechanized flotilla of pirate ships.

They don't fish. They harvest, but without regard to conservation.

Since the early sixties these floating factors from the Soviet Union, Poland, Japan and other nations have raked our waters scooping

aboard everything that floats or swims including, not rarely, an American fisherman's nets or lobster pots.

What's too small to freeze or too strange to filet is ground up for meal or fertilizer.

By contrast, the American "fleet" is actually 144,000 full and part-time fishermen who put to sea in 88,000 craft that range from skiffs to trawlers, the largest of which in Atlantic waters is still no match for their foreign rivals.

American fishermen were simply unprepared for the competition of foreign fleets operating as sea-going warehouses and processing plants.

To cite but one example, it wasn't 10 years ago that 120 million pounds of haddock a year were being caught from the Georges Bank of Cape Cod. But after Soviet flotillas turned their nets to haddock, the catch of New England fishermen plummeted to where 6 years later only 11.7 million pounds was brought ashore.

The irony, of course, is that the American consumer continued to buy haddock. But now it came imported and frozen, at prices far less than our own fishermen could match.

The consequence of a depressed American fishing fleet has been a necessity to import today 70 percent of our fish products. This added a staggering \$1.3 billion to our balance of payments deficit last year.

This, in a nation whose seas teem with fish.

In my youth, I can remember a bustling fishing port in Wildwood, N.J. It was in fact, the second largest commercial fishing harbor on the Atlantic Ocean.

Today that distinction is gone. We are left with a near deserted harbor, a victim of neglect and dwindling catches brought about in large measure by overfishing.

We in New Jersey can work on getting the State and the Corps of Engineers to dredge our harbors for the anticipated return of fishing fleets. But today, we need the help of Congress.

We need a 200-mile fishing limit off New Jersey just as sorely as the cod fishermen need a protective zone off New England. We need the time that a fishing limit will bring in order to create a more efficient domestic fleet to satisfy the demands of the U.S. market. [Sec. 2] In this way, we can put an end to the practice of buying back from others what lies just off our shores.

Without a 200-mile limit and the protection it offers to our out-manned fishing fleet, American fishing will continue its rapid decline from its preeminent position of a generation ago. Last year five nations recorded larger catches, assisted by treaties that provided ready access to our coastal waters. [Sec. 2]

Less than a decade ago more than 270,000 metric tons of fish was hauled in by New Jersey fishermen. Today that figure has dwindled to barely 100,000 metric tons.

Operating in many instances just beyond the 12-mile limit, vessels from the Soviet Union, Poland, Japan, Romania and other nations remove 800,000 metric tons of fish from Cape Cod to Cape Hatteras each year. Our domestic catch, meanwhile, has fallen off to less than 200,000 metric tons.

And while most American fishermen are limited by the size of their craft and facilities for freezing day-to-day fishing, foreign trawlers and their crews operate days and months on end.

Using fine mesh nets which comb the waters clean of all living things, foreign trawlers and their crew operate day and night removing, cleaning, packaging and freezing tons of fish around-the-clock.

It has been estimated that as a direct result of just this overfishing that the entire stock of fish from Cape Cod to Cape Hatteras has been depleted by two-thirds.

In just a decade haddock and porgies, the latter once bountiful off the Jersey coast, are now nearly extinct. Threatened species now include mackerel, flounder, cod, shrimp, halibut, herring and yellowtail. Ben Callaway, fishing editor for The Philadelphia Daily News, recently wrote that 3 years ago foreign trawlers were removing 99.3 percent of the mackerel, 87.5 percent of the herring, 90.1 percent of the red hake and 88.2 percent of the silver hake, all in total disregard to fish conservation.

Eight nations today claim territorial rights of 200 miles while two others—Costa Rica and Nicaragua—claim economic rights to 200 miles. Several of these nations—notably Ecuador, Peru and Chile—have become notoriously aggressive in enforcing 200-mile fishing claims. Ecuador demanded and got \$3.5 million for the release of seven American tuna boat crews.

Yet while American fishermen are arrested and hauled into port for fishing 140 miles off Ecuador, we are permitting the depletion of fish stock by foreign trawlers far closer to our shores to the ruination of U.S. commercial and sport fishing.

This simply must stop.

This legislation has been properly termed an interim measure. [Sec. 401] The long-range solution is to discourage rivalry among nations by ratifying an international accord fixing uniform territorial limits and a worldwide plan for fish management and uses of the sea by all nations. [Sec. 2(c) (5)]

But in the short term, if we are to shore up the American fishing fleet, we need the temporary protection of a 200-mile fishing limit. [Secs. 101; 401]

As for enforcement, [Sec. 311] the U.S. Coast Guard headquarters for the Atlantic region has advised me that it would take only a modest 5-percent increase in their annual budget [Sec. 406] to enforce a 200-mile limit. This is certainly reasonable and in our interest to provide.

I am not one of those who believes that the imposition of a fishing limit will make it more difficult to reach an international accord on territorial rights and cooperative uses of the sea. [Sec. 2(c) (5)]

I believe that the reverse is true. It is going to take forceful unilateral action by major countries such as the United States to provide impetus to reach an international agreement. [Sec. 2(c) (5)] At present there appears to be no urgency among nations to consider the settlement of these issues. We can look forward to protracted negotiations and nation-by-nation ratification, a process that may take several years.

Pending an international agreement, the United States, today, must assert interim control over its contiguous fishing zones. [Secs. 101; 401] Further delay means further depletion of our fish stocks and a precipitous decline in our domestic fishing industry. [Sec. 2] We must

take this action or face the unhappy prospect of simply ceasing to be a major fishing nation. [Sec. 2]

Mr. MINISH. Mr. Chairman, I rise in strong support of H.R. 200, a bill to extend the exclusive fishing zone of the United States from 12 to 200 miles.

As a longtime sponsor of this measure, I want to express my gratitude to Chairman Lee Sullivan of the Merchant Marine and Fisheries Committee for her support for this bill and her work in bringing it to the floor of the House.

The continuing failure of the United Nations Law of the Sea Conference makes it clear that our country will have to move forward unilaterally to protect our fisheries resources from decimation by foreign fleets. While the international delegates argue and debate, the activities of foreign fishing fleets off our coastline continue to seriously deplete our fishing stocks. [Sec. 2]

H.R. 200 seeks to halt this increasingly severe depletion of the fisheries resources of the United States. In doing so, it is not a threat to international order and stability; rather it represents a real benefit for a world populace whose protein and other nutrition needs may be increasingly dependent on the bounty of the oceans—a bounty of enormous potential if properly conserved and managed. [Sec. 2]

H.R. 200 goes much beyond the simple extension to 200 miles to provide for effective conservation of the oceans' resources. [Secs. 2; 101]

The bill would establish seven regional marine fishery councils whose primary responsibility would be to draw up fishery management plans for the conservation of species within their respective geographic areas. [Sec. 302] These plans may include detailed provisions to regulate when and where fishing may occur, the size of the catch, types of gear and the number of vessels which may fish in a specific area. [Sec. 303] and authority to charge for license fees. [Sec. 303(b)(1)] If the Secretary of Commerce, who has overall responsibility of managing U.S. fishery resources, does not believe a regional plan adequately carries out the purpose of the act, he may implement his own plan for the region until such time as the reasons for his assuming responsibility no longer exist. [Sec. 304(c)]

In addition, the bill would authorize the charging of license fees for all those fishing within the zone for managed species, the proceeds of which would be earmarked for stock assessment, research activities, and reimbursing U.S. fishermen for license fees imposed on them for foreign fishing. [Secs. 204(b)(10); 303(b)(1); 304(d)]

The bill would also provide civil [Sec. 308] and criminal penalties [Sec. 309] for violation of the act and authorize the banning of seafood imports from nations which refuse to preserve the rights of U.S. fishermen to waters which they had previously fished. [Sec. 205]

Mr. Chairman, it should be emphasized that H.R. 200 would merely serve as interim legislation that would be superseded by an agreement or treaty subsequently entered into with other nations. [Sec. 401]

However, though an international treaty is clearly the preferable route, we must be realistic about the chances for success and assume the responsibilities for protecting our own natural resources. [Secs. 2(c)(5); 401]

Failure to enact promptly the 200-mile legislation, in my opinion, would be to allow overfishing by foreign fleets to continue at an ac-

celerated rate, thereby jeopardizing the entire natural balance of marine life off our coasts. [Sec. 2]

Mr. HANNAFORD. Mr. Chairman, I rise in opposition to H.R. 200. I consider myself an environmentalist, and my aim is certainly not to deplete our oceans of fish. On the contrary, I am concerned about the method of saving them. We cannot move precipitously on such a delicate matter. We must remain mindful not only of the ecological environment, but the broader social, economic, and political environment as well. [Sec. 2]

I am aware that many of my fellow environmentalists are lined up on the other side of this issue. I can easily understand their reservations about the status quo. But on important and controversial issues such as this, I think we owe it to our divided citizens to balance interests, not to talk in ideological blacks and whites.

So I want to take this last-minute chance to address to this body certain questions which I think we all have to face up to before we really know what we are doing.

First. If we unilaterally declare a 200-mile limit, what do we expect other countries to do in reaction? Is not it true that the Bahamas just enacted a law declaring the spiny lobster a creature of their continental shelf, as a result of the same thing we did concerning the New England lobster?

Second. If other countries do retaliate, is this going to be limited to fishing matters, or might they not also take action against our oil cargoes, submarine transit, passage through strategic straits, and even overflight rights? May this not endanger our energy policy, and even our defense?

Third. Has not the United States strongly denounced other countries in the past for their unilaterally declaring 200-mile limits?

Fourth. Is not such a unilateral declaration totally contrary to international law? How about our fisheries treaty commitments, such as the Geneva Convention of the High Seas of 1958, which guarantees the freedom of fishing on the high seas?

Fifth. Are we not supporting the Law of the Seas Conference which is taking up this matter. What will happen to this Conference if the United States ignores it, and what will happen to the related negotiations concerning such things as ocean minerals, oil and gas development, freedom of scientific investigation, and pollution control? Can we dismiss Secretary Kissinger's statement that "no international negotiation is more vital for the long term political and economic stability of our globe"?

Sixth. If, as some argue, the Law of the Seas Conference will take a while to achieve a settlement, cannot we make bilateral arrangements in the meantime, as we did last year with Japan?

Seventh. Are we not undermining the rule of law in the oceans by demonstrating that a country can do whatever it pleases with respect to offcoast jurisdiction? Are we not condoning the Cambodian seizure of the *Mayaguez*—and indeed inviting another?

Eighth. How are we going to enforce our fishing regulations in the huge area within the 200-mile limit—particularly if other nations formally reject our law, and are backed up by a sizable world opinion? [Sec. 311] Are we not inviting confrontation with the foreign fleets of countries like Russia and Japan?

Ninth. Is it fair to landlocked countries, particularly the undeveloped ones, if coastal states take advantage of their geographical position like this?

Mr. Chairman, these are the questions I ask myself, and I reluctantly conclude that the answer to them is to vote down H.R. 200.

Mr. BURKE of Massachusetts. Mr. Chairman, I want to express my delight at the fact that we finally have on the floor a bill which I had the pleasure of cosponsoring, and which will help our fishing industry survive. [Sec. 2] We all know that if help does not arrive, and arrive fast, Atlantic, Pacific, and gulf fishermen just are not going to have anything left to fish. [Sec. 2] Back in May, a Provincetown, Mass., fisherman told a Boston Globe reporter:

The foreign boats . . . are cleaning us out faster than they're talking down in Washington.

Needless, to say, they are certainly cleaning us out faster than they are talking at the Law of the Sea Conference. When the LOS representatives met in Geneva in May, we were expecting great things to result. But the only thing they could decide was to meet again next year. Even our LOS Ambassador, John Norton Moore, said he was "frankly disappointed" at the lack of progress. The conference representatives did draft a "single negotiating text" which covers "virtually all" of the matters which we are considering here today. But we have been told that at least two more conferences might be necessary before a treaty is signed. I submit to you that if we wait until a multilateral treaty is considered, signed, and approved by the various parties concerned, the question of saving our fisheries will be academic. There will not be any fishing industry left to save. [Sec. 2]

Make no mistake about it, our fishermen are fighting for their lives—and livelihood—and they are losing the battle.

Let us consider for a moment the results of having to rely on foreign fish and fish products. Obviously, the price the American consumer would have to pay for these items would skyrocket. We have all seen what happened when foreign suppliers have us in their grasp as a captive market. The cost increases would not be limited to fish, either. Fish meal is an important component of the diet of poultry. The National Broiler Council has told me that in 1974, the poultry industry used around 400 tons of fish meal to provide vitally needed protein. It can amount to up to 6 percent of a broiler's diet. So we have price increases extending into another food product, and once again, the American shopper is asked to dig a little deeper into her purse.

The specter of our balance of payments also looms over the situation. The dollar must not be forced to shoulder the burden of another price-gouging foreign supplier. That is exactly what is going to happen if we do not establish some kind of protection for our fishing beds. [Sec. 2]

We have been told that this bill interferes with the normal diplomatic process, and that we are limiting the bargaining position of our conference representatives if we pass this bill. If we are acting prematurely, we are at least acting. If we sit on our hands and let the diplomatic process take its course, we will create more problems than we will solve. This bill does not negate any action which a Law of the Sea Conference might take. [Sec. 2(c)(5)] It merely provides for

fishing controls until a multilateral agreement is reached. [Secs. 2(c) (5); 401]

Madam Chairman, I commend you and your committee, particularly my able colleague and neighbor (Mr. Studds) for overcoming many obstacles and bringing us a bill which has some teeth in it, yet still adheres closely to the ideals set forth by the Law of the Sea Conference. [Secs. 2(c) (5); 401] I am proud to offer my support to H.R. 200.

Mr. HOWARD. Mr. Chairman, I rise in support of the establishment of a 200-mile fishing limit for the United States. I am sure that Members from coastal States already realize the critical importance of this legislation for not only the fishing industry but also for the American consumer who benefits from protein-rich fish products.

To my distinguished colleagues from the great land locked States of purple mountains and amber waves of grain, however, the pressing need for a 200-mile fishing limit for the United States may not be apparent.

I have no doubt that many of my able colleagues from these areas would be shocked to learn that there are—at this very moment—foreign fishing vessels literally sweeping the seas of fish with huge mechanized fleets—and this is taking place a mere dozen miles from our shores.

These foreign fleets are so advanced and deadly efficient in their methods that, with some of the larger vessels, live fish actually enter one end and emerge at the other processed, canned, or frozen, and ready for export. The crew size for some of the larger Soviet ships run as high as 500 to 600 men, and even the smaller ones carry 100 or so. One type of Soviet refrigerated transport is capable of carrying over 7,000 tons of frozen fish.

Compare this huge, modern, ocean-going fish factory with the typical American vessel with only a few crew members equipped with modest fishing gear at best. American fishermen simply do not have the capital that is available to the state-owned Soviet and other fleets.

Although the absence of a 200-mile limit is causing financial ruin for the American fishing industry, this is not only an economic issue. [Sec. 2] What is ultimately at stake is the continued ecological viability of major species of fish in the Continental Shelf. [Sec. 2] Soviet and other foreign fishing fleets are depleting this valuable national resource at such an alarming rate that scientists predict that certain species may become extinct in a very short period of time if we do not begin to strictly limit the wholesale slaughter that is presently taking place. [Sec. 2] Permanent environmental damage to the delicate balance of sea life on the Continental Shelf may have already taken place. [Sec. 2] This is what makes the legislation before us now all the more important. [Sec. 2]

One need only look at the example of the buffalo if there are any doubts about the capability of man to misuse his technology in such a manner that a valuable national resource is decimated. Without affirmative action by this body, commercial species of fish will certainly go the way of the buffalo. [Sec. 2]

The legislation which is before us today would extend U.S. jurisdiction over fishing on the Continental Shelf from the present 12 miles from shore to 200 miles. [Sec. 101]

It would not, as some would have us believe, extend the territorial limits of the United States at all. [Sec. 2(c) (1)] Every coastal nation in the world could put this 200-mile limit bill into effect and not one shipping lane or strait would be blocked to through traffic. It merely provides for U.S. management of U.S. fish resources on our own Continental Shelf. [Secs. 2; 102] We would not tolerate a Soviet oil rig off our shores; neither should we allow indiscriminate Soviet fishing in this same area.

Mr. Chairman, I am certainly no stranger to this issue. For the more than 10 years which I have had the honor to serve the people of the Third District New Jersey, the abuses of foreign fishing vessels—predominantly Soviet—have been a matter of constant irritation and concern.

In looking through my files the other day, I saw newspaper clippings depicting Soviet fishing vessels damaging the gear of U.S. fishermen and literally running them off the high seas with the Soviet's 30 to 40 ship maneuvers in sweeping the seas. The date of the clippings was 1967, more than 8 years ago; but they could have been dated 1975.

Just a few weeks ago, in waters off Monmouth County, a lobster boat owned by Mr. Jack Baker was actually dragged through the ocean for more than a mile by a Soviet trawler that ran afoul of Mr. Baker's lines. I submit that the American fisherman deserves better treatment than that, and this means better protection—protection that only the 200-mile fishing limit can provide. [Secs. 2; 101]

Some have suggested that the International Law of the Seas Conference might be compromised as far as the U.S. position is concerned by this unilateral action to protect our fish resources. Nothing can be further from the truth. The Law of the Seas Conference has produced nothing thus far except an agreement to meet again. Perhaps the enactment of the 200-mile limit will serve as an inducement to the United States and other negotiators there. In any event, additional years of talking, even if an agreement is reached eventually, would constitute much too little at much too late a stage in the present struggle to save what is left of the sea life on the Continental Shelf. [Sec. 2] International agreements are futile if we do not demonstrate the will to protect American fishermen in waters close to our own shores. [Sec. 2]

Mr. Chairman, I submit that if the Soviets began tearing down our forests and hauling away the timber, the Members of this body would be up in arms, and rightly so.

If the Soviets pushed the American farmers aside and planted Soviet wheat in American fields, I am sure that my able colleagues from the great Midwest would be manning the battlements, and I would be joining them.

If the Soviets constructed an auto manufacturing plant in this country, I have no doubt that the howl from this great body would be heard all the way to Red Square.

All that I ask is that the American fisherman be given the same consideration by the enactment of the 200-mile fishing limit.

Mr. ATCOIN. Mr. Chairman, I urge my colleagues to pass this landmark legislation. I know that there are those who are working hard to discredit this bill. They have raised a lot of questions that would

trouble any Member of Congress who may not be well acquainted with the central issues involved.

What is the central issue? The issue is the devastating waste and abuse of today's ocean resources. [Sec. 2]

I am talking about the fact that some species of ocean fish have been overharvested to the point of commercial extinction. [Sec. 2]

I am talking about the fact that other species are destined for the same fate if we simply sit on our hands and do nothing about it. [Sec. 2]

I am talking about the fact that foreign fleets are laying siege to America's offshore fisheries—sweeping up fish with little if any regard for the concept of sustained yield or other conservation practices.

I am talking about the fact that the American commercial fishing industry is decaying today because the developments I have described have crippled its annual catch, crippled its ability to attract capital and crippled its ability to attract young fishermen to the industry. [Sec. 2]

How have these things occurred? They have occurred because the traditional concept of the completely open high seas has—in today's world—not meant freedom so much as a lack of responsibility—a lack of responsibility for the living and mineral resources of the seas. [Sec. 2]

Mr. Chairman, the law of the sea has almost become the "law of the jungle"—each nation free to exploit the resources of the sea at will; but no nation responsible for the consequences.

Those consequences are tragic, Mr. Chairman.

Beyond the damage to fishing, there are serious environmental losses. [Sec. 2] The Mediterranean, for example, is in such a tragic state it has been called a "dead sea." Portions of the Pacific and Atlantic are known to scientists as "deserts"—incapable of sustaining significant sea life.

The question today is simply this—are we or are we not going to do anything about these events?

We have an opportunity to do something right now.

This Nation—and every nation—should extend their coastal fishing jurisdictions in order to stop the damage that is currently being done.

Some 40 nations have already done so.

If we can do this, too, we can protect our ocean resources while the world waits for a lasting international treaty to be worked out. [Secs. 2(c)(5): 401]

That is the issue here today. No reasonable person opposes an international treaty. But the question is: What will happen to our ocean resources while we wait for the treaty? [Secs. 2(c)(5): 401]

We have been waiting in vain for 17 years. As we have waited, our resources have been steadily depleted. And now the State Department tells us to wait once again—until the next round of international negotiations begins in New York next year.

This is the same Department that told us in 1958 to wait until the international conference in Geneva had met. We waited, but the agreements which were reached did not protect our fisheries from continued assault.

In 1960, the Department told us to wait again—until another Geneva conference was concluded. We did, but again the diplomats failed to produce.

Mr. Chairman, this story was reported in 1974 in Caracas and again in 1975 back in Geneva.

And yet the State Department is asking this Congress today to wait again—for yet another international conference.

Those diplomats have been talking for 17 years and all they have agreed on is the form of the document they intend to debate.

Mr. Chairman, this country can wait no longer. The problem of the world's ocean resources can wait no longer.

I contend that passage of this bill will hasten an international treaty, not hinder it, because it will tell the world that on this issue America means business. [Sec. 2(c) (5)]

Finally, let us pass this bill.

Mr. BONKER. Mr. Chairman, I rise in support of H.R. 200. I ask unanimous consent to revise and extend my remarks.

As a cosponsor of this legislation and as a member of the Merchant Marine and Fisheries Committee, I took part in the many days of hearings and hours of subcommittee and full committee discussion that resulted in the bill before this House today.

This bill would extend the contiguous fisheries zone of the United States to 200 nautical miles [Sec. 101] and would give the United States management authority over anadromous fish spawned in our waters throughout their migratory range. [Sec. 102(2)]

The reason for this extension of jurisdiction is to manage and conserve valuable marine resources presently threatened by overfishing. [Secs. 2; 101; 102] This is an interim measure and will terminate automatically at the time an acceptable international agreement on the question of fisheries jurisdiction is forthcoming from the United Nations Law of the Sea Conference. [Sec. 401]

We must act now. [Sec. 2] We cannot afford to sit idly by while the rape of our fisheries resources off our coasts continues. The list of fish stocks off our shores which are being depleted grows each year. Scientists have now concluded that approximately 25 different stocks of fish are at such a low level that they are either considered to be depleted or threatened with depletion. The following is a list though not necessarily complete, of stocks which are either damaged or threatened off U.S. coasts at present and are of direct interest to U.S. fishermen: haddock, halibut, herring, and menhaden in the Atlantic; salmon, mackerel, and hake in the Pacific. It is because of the rapid decline of these and other species of fish that the United States must exert management control over a 200-mile zone, a zone which roughly encompasses nearly all of our Continental Shelf and nearly all of our important coastal species. [Secs. 2; 101]

This bill is essential if we are going to make a serious effort to prevent depletion of our fisheries resources. Actually the bill is patterned after our U.S. fisheries position as put forth in the Law of the Sea Conference.

At the moment this is the only way we can provide this Nation with the management authority needed to enact and enforce conservation measures. [Sec. 2] Just Monday of this week I received as I am

sure most of my colleagues in this House did, a wire from the 20,000 members of the National Federation of Fishermen urging the passage of this legislation.

I think it is shocking that approximately 75 percent of all living marine resources harvested off our coasts are taken by foreign fleets. What was once a great industry in our Pacific Northwest is now struggling for its life. The U.S. share of the world catch of fish has been rapidly declining. This in the face of an increasing consumption of fish and fishery products by residents of the United States. [Sec. 2]

In 1969, the residents of the United States consumed 1.94 million metric tons of seafood and in 1970 that had grown to 2.8 million metric tons. This is an increase of almost 45 percent. Most of this increase was met by imports. To give you an idea of this growth of imports, in 1950 the United States imported only 23.4 percent of its seafood, but in 1972 imports were over 60 percent. This desire for seafood has also led to an adverse balance of payments of \$1.3 billion in fish and fisheries products, up 318 percent since 1960. In short, although fisheries play a growing role in our national diet, our domestic fishing fleet catches less and less of the fish consumed.

The decline taking place in many of our fisheries off our coasts are coincidental with the increased foreign fishing in major areas along our Continental Shelf and beyond our existing 12-mile fishery jurisdictional limit.

Mr. Chairman, I have heard only one argument against this legislation. It comes in two parts: First, the U.S. Government should not act unilaterally, but patiently negotiate something at the Law of the Sea Conference; and second, this legislation as it is presently written will tamper with existing U.S. fishing agreements and treaties.

These are unfounded claims.

This bill represents good foreign policy. It recognizes, just as does the Sinai agreement, part of which we passed overwhelmingly yesterday, that reliable and stable international accords are best based upon forthright recognition of national interests. H.R. 200 will hasten and insure the durability of future international treaties regarding marine resources. [Sec. 2(c) (5)]

It is a gentle push toward international agreement. It follows recent State Department doctrine that we must take small steps when conditions are not ripe for overall international settlements of disputes and problems.

This bill does retain the element of flexibility in diplomacy which is so important to our Secretary of State. In fact, it encourages him in one of his favorite pastimes—renegotiation of treaties and agreements. [Sec. 202] And as Dr. Kissinger recently stated before the American Bar Association:

The United States cannot indefinitely accept unregulated and indiscriminate foreign fishing off its coast.

Those who say they are in favor of a 200-mile zone but prefer to go through the Law of the Sea Conference may not understand the immediacy of the worldwide fishing crisis. Even the more optimistic participants at the conference say that nothing will be accomplished in the 1976 session and it may be 5 years before any action is taken. By that time there will be no fishery stock to worry about. [Sec. 2]

We can no longer afford to sit on our hands waiting for an international agreement. [Sec. 2] The normal process of negotiating fishery agreements has been time consuming and complex. More and more nations are taking unilateral action and established 100- and 200-mile limits.

At the present time the United States is party to 20 international fishing agreements and periodically engaged in bilateral and multilateral negotiations with foreign nations to restructure these treaties and to frame new ones which seek to conserve fish resources. An indication of the lack of success of these treaties is the fact that nearly all of the stocks of fish considered to be depleted or threatened with depletion are subject to these international agreements. Past experience shows that international agreements have not solved the problem of achieving timely and effective programs for the protection of fish stocks. [Sec. 2]

Contrary to some views, this bill accomplishes two things in the interest of the United States and the whole world: interim protection of drastically depleted fisheries stocks [Sec. 401], and impetus toward action on an international marine resources agreement. [Sec. 2(c) (5)] Let us get on with both.

My colleagues, action is needed now. If we are to conserve this valuable and finite resource [Sec. 2], H.R. 200 must be acted upon favorably by the Members of this House. I urge you to vote "aye". We cannot wait forever for a treaty.

Mr. BOWEN. Mr. Chairman, I appreciate the opportunity to make a statement on the floor today in behalf of H.R. 200, a bill which I am cosponsoring to extend the limits of the U.S. coastal waters from 12 to 200 miles in order to protect our domestic fishing industry from extensive and growing foreign encroachment.

I want to commend the distinguished chairman of the Merchant Marine and Fisheries Committee for her handling of this important legislation in our committee. I have been privileged to serve under her leadership for 3 years on this committee, and I appreciate the job she has done, particularly in bringing this bill to the House floor today.

The fishing industry is very important to the economic well-being of our Nation and my own State of Mississippi. We have an extensive fishing and seafood industry centered on our own Mississippi gulf coast, and our fishermen there are deeply concerned about the growing encroachment in the coastal waters of the United States by foreign fishing fleets from such nations as the Soviet Union, Cuba, Japan, and elsewhere. Our people are concerned that their livelihoods and economic stability have some measure of protection from the advanced technology and predatory nature of these foreign fishing fleets. [Sec. 2]

I cannot urge too strongly the need for this legislation, and I am sorry that the State Department and the Ford administration have seen fit to oppose it.

Our fishermen in the Atlantic, gulf, and Pacific coastal areas need this legislation. They need it now, before these foreign fishing fleets decimate those traditional fishing beds upon which our domestic fishermen rely for their livelihoods. [Sec. 2]

The Merchant Marine and Fisheries Committee has worked extensively this year on this legislation. All implications have been

thoroughly examined by the committee. This is a good bill. The time has arrived for its passage. I urge my colleagues in the House of Representatives to vote for H.R. 200.

Mrs. HECKLER of Massachusetts. Mr. Chairman, the central issue before us is the question of whether or not the United States should act unilaterally in terms of dealing with the problem of fisheries management, and it is my view that the failure of this year's Law of the Sea Conference to take substantive action in this regard requires a unilateral initiative by the United States. [Secs. 2; 101]

Even if this legislation is passed today and is later enacted into law, it is too late for many fishermen in my district. One of my constituents, a lobsterman from Westport, Mass., has lost everything—all of his 300 traps and all of his 9,600 fathoms of line. And the fishermen who continue to fight for survival are losing their battle. For years, foreign fleets have displayed a blatant disregard for the American fisherman and his equipment. Foreign ships have been causing untold thousands of dollars in lost and destroyed U.S. fishing equipment by, either intentionally or unintentionally, steaming through clearly marked fishing areas. In some cases, lives of U.S. citizens have been imperiled by these large trawlers cutting dangerously close to U.S. ships. In all cases, the livelihood of our fishermen has been endangered.

Earlier this year, in an effort to express their desperation and symbolize their will to survive, I introduced a letter of marque. Unused since the War of 1812, the letter of marque is a special commission provided for in the Constitution to allow private vessels to go out on the high seas and seize by force the ships of another country which are threatening our national interest.

While I did not expect the Congress to enact this measure, it was my hope that the existence of this resolution in the 94th Congress, 161 years after the last letter of marque was issued, would help focus attention on the plight of fishermen and the danger we confront of losing control of our native fishing grounds. [Sec. 2]

By international law, all nations have the right to fish the high seas. There is no international provision, however, to assure the conservation and management of these ocean resources—there is no incentive for responsible fishing methods. On the contrary, international law encourage the depletion of ocean resources by offering them on a “first come, first served” basis. Scientists report that 25 stocks are already dangerously depleted, including several vital to U.S. fishermen, and this depletion can be traced to the large and sophisticated foreign fleets—fleets which have modern equipment and are usually subsidized by their respective governments. The American commercial fishing industry has no such subsidy and is composed of many privately owned, small operations. It is therefore at a severe competitive disadvantage. Couple this with the foreign fleets irresponsible “hit and run” tactics, and there is no competition at all. [Sec. 2]

It is imperative that we recognize our fishing stock as a vital national resource and act to prevent its continued depletion [Sec. 2], just as we prohibit the depletion of our inland resources. The oceans are no longer a great cornucopia of endless supplies of fish. The advent of more efficient fishing techniques and a growing demand for fisheries products have demonstrated that there is a pressing need for a rational conservation and allocation system for the living resources of the oceans. [Sec. 2]

But we must act now. Time is not on our side. Our fishermen face extermination on the high seas; they see the danger—they face it every day. It is time that we respond to their call for aid and end the callous plunder of our limited oceans resources. [Sec. 2]

H.R. 200 extends the U.S. exclusive fisheries zone from 12 to 200 miles [Sec. 101], although fishing by approved foreign states will be permitted. [Sec. 201] It also provides for the development of regional management plans and regulations to control zone fishing [Secs. 102; 302; 303; 304; 305] and migratory fish over their range. [Sec. 102(2)] H.R. 200 also authorizes and provides for the administration of seven regional marine fisheries councils. [Sec. 302] The committee estimates the cost through fiscal year 1981 to be \$655,121,000. [Sec. 406]

AMENDMENTS

To insert a definition of internal waters as those waters shoreward of the outer limit of the territorial sea of the United States. [Sec. 3]

To amend “highly migratory” species to mean only tuna—to exclude billfish. [Sec. 3(14)]

To strike section 202 regarding existing treaties and their renegotiation. [Sec. 202(b)]

To strike section 203 requiring the State Department to renegotiate tuna agreements and the embargo provisions. [Secs. 202(a)(4); 205]

To strike the embargo provision. [Sec. 205]

To strike section 206 regarding congressional disapproval of certain international fisheries agreements. [Sec. 203]

To decrease the number of marine fisheries councils for the Atlantic Coast from three to two. [Sec. 302(a)]

To require State Fish and Game commissioners to sit on the councils, rather than allowing the State Governors to appoint a member. [Sec. 302(b)]

To require that management plans must have the consent of the regional councils before implementation. [Sec. 305]

To strike section 309 allowing the Secretary to override State regulation to impose a Federal management plan. [Sec. 306]

To insert “knowingly and willingly” in section 310 for civil violations. [Sec. 308]

Mr. DRINAN. Mr. Chairman, traditionally, a basic principle of freedom of the seas has been that fishermen of the world have open access to the fish stocks of the high seas. Until recently, this historical principle has underscored a workable arrangement for the fishing of the world's oceans. During the last 15 years, however, modern fishing techniques, an increase in the world's fishing activity, the rising world population, an increased demand for fish products, and the absence of meaningful conservation methods have resulted in the depletion of or threatened depletion of approximately 25 stocks of fish.

The realization that the seas' resources are limited and critically threatened has led to national and international movements for greater control over fishing activities. Since 1974, the United Nations' Law of the Sea—LOS—Conference has been attempting to reach agreement on various maritime issues, including territorial and economic zones. A consensus seems to have emerged among delegates to the Conference on recognition of 200-mile economic zones. As of July,

1974, this concept has been supported by the United States. The LOS Conference, which is in the process of resolving other pending issues, is scheduled to meet in March of 1976. During the last 25 years, in the absence of an established international agreement, approximately 40 nations have unilaterally extended their fishing domains beyond the traditional 12-mile limit.

This state of affairs has merited a reassessment of the current territorial jurisdiction of the United States. This is particularly true in light of the fact that our domestic fishing industry is seriously threatened as a result of unrestrained foreign competition. Numerous international agreements have to date proved useless as tools for protecting and conserving U.S. coastal fishery stocks and for maintaining a viable fishing industry along America's coastlines. The Merchant Marine Fisheries Conservation Act of 1975 (H.R. 200), the legislation before us today, will guard our coastal fish and our fishing industry against decimation by foreign fishing activities.

Mr. Chairman, I am a cosponsor and supporter of H.R. 200. This legislation would extend on an interim basis the U.S. exclusive fisheries zone from 12 to 200 [Sec. 401] miles effective July 1, 1970. [Sec. 104] The bill would establish a comprehensive fishery management program [Sec. 102] through the creation of seven regional marine fishery councils. [Sec. 302] The legislation also gives U.S. fishermen preferential rights within the 200-mile zone [Sec. 201(d)] and mandates that foreign vessels fishing within the zone receive permits from the Secretary of State. [Sec. 204] In addition, H.R. 200 provides for an embargo of seafood imports from foreign nations which do not grant U.S. fishermen equitable access to waters traditionally fished by those fishermen. [Sec. 205]

Enactment of H.R. 200 at this time is imperative; the need for this legislation is critical. The present and future welfare of this Nation's fish stocks and of our domestic fishing industry depends on passage of this legislation. [Sec. 2] I am particularly aware of the difficulties faced by fishermen because the fishing and lobstering industry in my own State of Massachusetts represents a significant part of the economy. The take of fish by New England fishermen off that region's coast has remained relatively stable, or has declined in the past 15 years, while foreign nations fishing in this area have experienced monumental gains. It is clear that the work of foreign fishing fleets off the coasts of the United States must be regulated and curtailed in order to prevent unalterable damage both to our fish stocks and to the American fishing industry. [Sec. 2]

Mr. Chairman, opponents of H.R. 200 have set forth various arguments against enactment of this bill. Principal among these arguments is the contention that H.R. 200, if enacted, would seriously jeopardize the negotiations at the Law of the Sea Conference. I agree wholeheartedly with those who cite the importance of our commitment to negotiations on this extremely complex issue through the LOS Conference. It is imperative that these negotiations go forward. I believe firmly, however, that immediate interim action by this Nation is necessary to conserve many of our fish stocks and to protect our domestic fishing industry. [Sec. 2] The accomplishment of these simple goals solely through the LOS Conference negotiations will involve, even in the most optimistic predictions, a matter of years. Action to prevent the

further depletion of our fishing resources cannot be postponed. Even with enactment of H.R. 200, the 200-mile limit would not go into effect until July 1976. [Sec. 104] Since the LOS conference is meeting in the early spring of 1976, there is still time for the delegates to reach agreement.

Mr. Chairman, I urge my colleagues to support H.R. 200. The fishery resources of the oceans are not inexhaustible; our domestic fishing industry is not being adequately protected against unfair competition by foreign fishing fleets. The Merchant Marine Fisheries Conservation Act of 1975, the most significant fisheries legislation of the past decade, will establish methods for the preservation of the marine environment and will address the plight of the American fishermen. The dangers of inaction are great. Without enactment of this legislation, we face the possibility of irreversible damages to the fish of our coastal waters and to the American fishing industry alike. [Sec. 2]

Mr. GRASSLEY. Mr. Chairman, I am pleased to see in this bill, proof that those who promote a healthy economy, and those who support a healthy environment need not always be in conflict. Through the passage of H.R. 200, we will save from extinction both our fish and our fishermen, to the benefit of the whole Nation. [Sec. 2]

Mr. HARRINGTON. Mr. Chairman, the House today takes up the important question of whether or not the United States should establish a 200-mile fishing limit. I strongly support the proposal and wish to briefly explain my reasons for doing so.

By establishing the 200-mile limit and creating fishery conservation zones within it, we would be taking a major step to revitalize the diminishing fish population in our oceans, which have declined drastically in the past 25 years due to the saturation fishing methods used by foreign fishing fleets.

I should point out at the outset that I view the 200-mile-limit extension as an interim solution [Sec. 401] to an extremely critical problem. I do not usually favor unilateral action of this nature, and I frankly hope that it would not become habit forming particularly during the ongoing discussions of the Law of the Sea Conference.

The fact remains, however, that the existing law of the sea, from the Geneva Accord of 1959, and the present treaty alliance in the Northwest Atlantic have not been successful in managing fisheries resources in the Northwest Atlantic.

So serious is the decline of certain species that the Canadians, facing considerable financial loss and diplomatic risk, closed their Atlantic ports in July to the Russian fleet in protest of continuing over-fishing and inability of the International Commission on Northwest Atlantic Fisheries to reduce quotas and close off certain areas where threatened species have drastically declined.

Only last week, at a special meeting of ICNAF in Montreal, after a 10-percent reduction in quotas has been achieved, and certain areas in the Northwest Atlantic were closed off to large—155 feet—fishing trawlers, did the Canadians and Russians restore relations and reopen ports. Those achievements were probably only possible due to the awareness by member nations that action in the 200-mile fisheries jurisdiction was eminent.

Of course, despite the recent events in Montreal, there is no guarantee that over-fishing will cease off our coast and that the 17-member

nations of ICNAF will take appropriate action to stop infringements by their own fleets which are cited for offenses. The United States and Canada are powerless, under present jurisdictional laws, to take appropriate action to protect and restore remaining species—other than impounding violating vessels if they come into port.

We have, to date, depended on an international honor system in the Northwest Atlantic under ICNAF which has a 25-year record of abuse and failure to protect fisheries resources. We can no longer do so. We should have the power now to establish a rational fisheries management program to establish a threatened resource, which properly managed, could provide more protein for all nations in the long run. [Secs. 2; 102]

While I remain hopeful that a negotiated settlement will be forthcoming I firmly believe that if we wait for the Law of the Sea decisions which are approximately 3 years away, we will have very little left to protect and restore. We will have witnessed the death of a 350-year-old industry, the domestic fishing industry, upon which the economics of the original colonies were built during the celebration of our own Bicentennial. Our choices are clear and the need for positive action is evident. [Sec. 2] I strongly urge my colleagues to join with the 148 cosponsors of H.R. 200 in voting for passage of this important measure.

Mr. BIAGGI. Mr. Chairman, I rise in unqualified support of H.R. 200, legislation which will extend the United States exclusive fisheries zone from 12 to 200 miles. As a cosponsor and a member of the committee which reported out this bill, I consider its passage critical if we are to curb the rapid destruction of our fishing industry. [Sec. 2]

This bill has other important provisions in addition to the extension of the fishing boundaries. [Sec. 101] Any foreign vessel fishing within the 200-mile zone would be required to receive a fishing permit from the Secretary of State. [Sec. 204] The application would be considered as an international agreement and the Congress would have 60 days in which to disapprove of the action. [Sec. 203] Penalties which could be imposed on the offending nations would include an embargo of all imported fishing products of that nation. [Sec. 205]

The bill will also establish seven regional marine fishery councils whose primary responsibility it will be to promulgate plans to promote conservation of endangered fish species in their respective geographic areas. [Sec. 302]

Both the need and the call for extension of our fishing limits have been a long time in coming. As far back as 1945, President Truman proposed a series of conservation zones to control fishing in areas where it would occur on a substantial scale. This was in reaction to repeated Japanese incursions into the Alaskan salmon fishery. As a direct result of Truman's proclamation, nearly 40 nations extended their fishing zones to the present 12 miles.

In recent years the demands and urgency to extend our fishing limit has become more pronounced. This Nation, despite being victimized by the existing fishing limit, chose to participate in international conference which would determine the extension of fishing limits on a universal basis. As a member of the Merchant Marine Committee, I attended this year's Law of the Sea Conference in Geneva and came away from the meeting frustrated by the fact that the conference was

years away from taking final action on this important matter. This Nation can ill afford to wait another 2 to 5 years before we implement a 200-mile fishing limit. Both the drastic reduction in the numbers of fish caught by the U.S. fishermen and the overall clamoring of the American people for an extension, have brought us to this point today. [Sec. 2]

There are those who object to the United States taking this action on a unilateral basis. Yet I contend that this position is justifiable for our Nation has suffered on a unilateral basis from the rampant piracy of our fish supplies and reserves by greedy foreign nations. Several months ago in my capacity as chairman of the Subcommittee on Coast Guard and Navigation, I flew off the coast of New York to determine the extent of violations of our fishing laws by foreign vessels. I was astounded to find no less than 12 different vessels representing various foreign nations to be in violation of our fishing laws. It is apparent from the standpoint of the survival of our own fishing industry that this Nation pass H.R. 200, and by postponing the date of implementation to July 1976 [Sec. 104] it is hoped that the Law of the Sea Conference will complete action on a similar proposal to be applied multilaterally.

The extent of the destruction of our fishing industry must be noted. In addition to the dramatic increase in the size of the foreign catch of fish, the U.S. share of fish caught off the east coast has declined from 93 percent in 1960, to 50 percent in 1974.

Meanwhile, our consumption of fish has doubled in the past 20 years, causing us to import fish in unprecedented quantities, thus perpetuating our balance of payments deficit in fish products which has increased by over 318 percent since 1960.

I am proud to be associated with a bill so universally acclaimed by the American people. They see no reason why this Nation must tolerate the consistent assaults on our fishing industry by foreign nations. This Nation has sought to adhere to the 12-mile limit yet has encountered innumerable problems. During the past several years, U.S. tuna boats fishing off Ecuadorian waters were seized by the government and the fish caught were confiscated. The government only claimed to recognize a 3-mile fishing limit.

Despite our own adherence to the law, we have been lax in our enforcement of the law as it pertains to foreign vessels operating off our own coast. The citizens of the United States who are great consumers of fish have been forced to endure interminable increases in the price of fish due to the depletion of supplies and reserves. They recognize the importance of fish as a component of a nutritional diet. As mentioned, the U.S. fishing industry has suffered tremendously under existing law. Failure to enact this legislation could result in the ultimate collapse of this very important American industry. [Sec. 2]

This bill contains important environmental benefits as well. We are seeking to control the seizure of endangered fish species which face extinction unless some form of control is instituted. The Merchant Marine and Fisheries Committee has been in the forefront of the battle to protect endangered species from extinction. I point to the Ocean Mammals Protection Act of 1972 as one bill, today's is another.

Let me add that this bill enjoys widespread support in this Nation. It has received the endorsement of the AFL-CIO, major environmental groups, and the fishing industry, as well as the National Advisory Committee on Oceans and Atmosphere, which in a report to the President, recommended the implementation of a 200-mile fishing limit.

I urge swift passage of this legislation today. It is long overdue and its enactment is important for the benefit of the American fishing industry as well as the American consumer.

Mr. PIKE. Mr. Chairman, I rise in support of H.R. 200. I realize that what we are doing here today in consideration of this bill portends something of a minor annoyance downtown, both at the White House and in the Department of State. Both the President and the Secretary of State are long since on record as opposing any precipitate action by Congress which would preempt what the Law of the Sea Conference is supposed to be doing towards resolving the touchy issue of the sovereignty of nations over their territorial seas, and especially the precious marine resources encompassed within them.

But the fact of the matter is that the stately, slow and measured pace of the Law of the Sea Conference towards resolution of the issue and manifested thus far should give no one any great hopes that they are going to reach the promised land anytime soon. Meanwhile, I can assure you that what remains a minor annoyance downtown continues to flare out as a major, burning issue to U.S. commercial fishermen and sport fishermen, and nowhere more brightly and more heatedly than among the commercial fishermen and sport fishermen in New York's First Congressional District. For too many years now they have had to tolerate the depredations of foreign fishing fleets, as numerous, as modern, as efficient as subsidies paid by their governments can make them, running amuck off our shores, not only thumbing their noses at a few hardy U.S. fishing vessels that venture into their midst, but sometimes literally running roughshod over them. As a result, we are informed, approximately 25 stocks of fish have become dangerously depleted. While I cannot attest to the absolute reliability of that data, as an inveterate weekend fisherman on the Atlantic Ocean off the shores of Long Island, I can personally attest that some species formerly in abundance have become rare in my own lifetime.

I have repeatedly introduced bills similar in intent to H.R. 200 and I am happy to lend my support to H.R. 200 today. I commend the work of the Merchant Marine and Fisheries Committee under the distinguished leadership of the gentlelady from Missouri. I wish to assure her that she and her committee colleagues on both sides of the aisle have earned the gratitude of thousands of my constituents in whose behalf I thank the entire committee for this signal and long-awaited legislative accomplishment.

The CHAIRMAN. If there are no further requests for time, the Clerk will read.

Pursuant to the rule, the Clerk will now read by title the substitute committee amendment printed in the reported bill as an original bill, for the purpose of amendment.

The Clerk read as follows:

H.R. 200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[Sec. 1] SECTION 1. SHORT TITLE.

This Act may be cited as the "Marine Fisheries Conservation Act of 1975."

SEC. 2. CONGRESSIONAL FINDINGS, POLICY, AND PURPOSES.

[Sec. 2(a)] (a) **FINDINGS.**—The Congress finds and declares the following:

(1) Coastal species of fish which inhabit the waters adjacent to the United States, highly migratory species of the high seas, species which dwell on or in the Continental Shelf, and anadromous species which spawn in United States rivers and estuaries, constitute an irreplaceable resource which contribute to the food supply and economy of the Nation as well as to the health and recreation of its people.

(2) Stocks of fish which United States fishermen depend upon have been the target of concentrated foreign fishing which has increased dramatically during the past decade. Certain coastal and anadromous species are depleted to the point where the survival of the fisheries is threatened and others have been substantially reduced in number, as the result of continued overfishing and failure to initiate or to observe sound conservation practices.

(3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon the fishing industry as the foundation of the local economy. The depletion of fishery resources at an ever-increasing rate over the past decade threatens the social and economic fabric of those coastal regions where fishing and related activities are the principal source of employment.

(4) United States fishermen, confronted by massive foreign fishing fleets in coastal waters of the United States, have suffered extensive interference with their fishing efforts and destruction of their gear under circumstances which render it virtually impossible to secure compensation.

(5) International agreements have not been effective in halting the depletion of valuable coastal and anadromous species caused by such overfishing; and even to the extent that international agreements might ultimately prove to be effective, there is danger that irreversible depletion of such species will take place before such agreements can be negotiated, signed, ratified, and implemented.

(6) Fishing for coastal and anadromous species is carried out in part on the high seas off the coasts of the United States by United States and foreign vessels where no regime of law, except for specific international agreements, applies to govern fishing or to require conservation practices.

(7) Fisheries, resources are renewable and if placed under sound management before depletion has caused irreversible effects, can be restored to provide optimum sustainable yield. It is therefore in the national interest and in the interest of all nations and peoples engaged in fishing on the high seas to provide effective management programs that will both maintain the optimum sustainable yield of fisheries resources and support the commercial and recreational fishing industries.

(8) Developing international law, as proposed in the informal single negotiating text recently prepared at the Third United Nations Conference on the Law of the Sea, proposes primary coastal state management and preference over coastal species in an economic zone extending to 200 miles beyond the baseline of the territorial sea, and primary host state management and preference over anadromous species.

[Sec. 2(b) : 2(c)] (b) **POLICY AND PURPOSES.**—It is therefore declared to be the policy and purposes of the Congress under this Act—

(1) to conserve and manage the fisheries resources found off the coasts of the United States and the anadromous fisheries resources of the United States in the high seas by establishing an exclusive fisheries conservation and management zone in the area extending 200 nautical miles seaward of the United States within which the United States will assume management responsibility and authority over all fisheries resources, except highly migratory species, and by declaring fisheries management responsibility and authority on the high seas beyond such zone with respect to anadromous species;

(2) to support and encourage international measures for the conservation and management of highly migratory species on the basis of regulations consistent with the terms of any applicable international fisheries agreement ;

(3) to promote the commercial and recreational fishing industries of the United States in order to maximize under sound conservation and management principles the production of food from the sea and the recreational opportunities of the American people ;

(4) to establish management programs which will achieve and maintain an optimum sustainable yield from fisheries resources under circumstances which can enable the States, the fishing industry, consumer and environmental organizations and other interested persons to participate in or advise on the establishment of management plans and regulations, and in the development of such programs in regard to stocks of fish, to consider the social and economic needs of the coastal States along which such stocks abound ;

(5) to permit foreign fishing within the fisheries zone established by title I of this Act consistent with the conservation requirements of the various stocks, if there are excess stocks of fish not being utilized to the optimum sustainable yield by United States commercial or recreational fishermen, after there is taken into account the efforts of United States fishermen to develop new and expanded fisheries, and the fact that certain stocks of fish which United States fishermen have been heavily dependent upon are now seriously depleted largely as a result of foreign fishing ;

(6) to support and encourage continued active United States efforts to obtain an internationally acceptable treaty at the Third United Nations Conference on the Law of the Sea, and particularly to seek effective conservation of living ocean resources ;

(7) to maintain without change the existing jurisdiction and rights of the United States in the Continental Shelf and the waters superjacent thereto for all purposes, other than the protection and conservation of fisheries resources as provided by this Act ; and

(8) not to authorize any impediment to, or interference with, lawful activities on the high seas, except with respect to the protection and conservation of fisheries resources as provided by this Act.

[Sec. 3] SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "anadromous species" means those species of fish which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters.

(2) the term "coastal species" means all species of fish other than any species referred to in paragraphs (1), (3), and (13) of this section.

(3) The term "Continental Shelf species" means any Continental Shelf fishery resource as defined in section 5(a) of the Act of May 20, 1964 (78 Stat. 196; 16 U.S.C. 1085(a)).

(4) The term "depleted", when used with reference to any species of fish, means that a stock of the species has been so reduced, as a result of overfishing or any other cause induced by man, or as a result of any natural cause, that a substantial reduction in fishing effort must be immediately achieved in order that the stock can replenish itself and once again provide an optimum sustainable yield.

(5) The term "fisheries zone" means the fisheries conservation and management zone established by title I of this Act.

(6) The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than birds or marine mammals.

(7) The term "fishery" means the business, organized activity, or act of fishing for a particular stock or species of fish (or for two or more stocks or species which are caught simultaneously or otherwise caught together) which by virtue of its geographical, scientific, technical, recreational, and economic characteristics is capable of being regulated as a unit.

(8) The term "fishing" means the catching, taking, harvesting, or attempted catching, taking, or harvesting, or any action which can reasonably be expected to result in the catching, taking, or harvesting, of fish for any purpose, and any activity at sea in support thereof.

(9) The term "fishing vessel" means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for—

(A) fishing ; or

(B) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, supply, storage, refrigeration, transportation, or processing.

(10) The term "high seas" means all waters beyond the territorial sea of the United States.

(11) The term "international fisheries agreement" means any bilateral or multilateral treaty, convention, or agreement relating to fishing to which the United States is a party.

(12) The term "Marine Fisheries Commission" includes the Atlantic States Marine Fisheries Commission, the Gulf States Marine Fisheries Commission, and the Pacific Marine Fisheries Commission established by interstates compact.

(13) The term "highly migratory species" means any species of fish which spawn and migrate during their life cycle in waters of the high seas, in and outside the fisheries zone, including, but not limited to, tuna; but excluding halibut, sablefish, and herring.

(14) The term "optimum sustainable yield" means a yield which provides the greatest benefit to the United States as determined on the basis of the maximum sustainable yield of a stock or stocks of fish as modified by relevant ecological, economic, and social factors.

(15) The term "person" means any individual, corporation, partnership, or association (whether or not such individual is a citizen or national of the United States, or such entity is organized or existing under the laws of any State), and any government or entity thereof.

(16) The term "Secretary" means the Secretary of Commerce.

(17) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the possessions of the United States.

(18) The term "stock" means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.

(19) The term "United States" when used in a geographical context, means all the States thereof.

Mrs. SULLIVAN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

Mr. FRASER. Mr. Chairman, reserving the right to object, I might say if it is a matter of reading title by title, I have no objection to the title being considered as read.

The CHAIRMAN. Does the gentlewoman from Missouri wish to renew her request as to title I?

Mrs. SULLIVAN. Mr. Chairman, I ask unanimous consent that the bill be considered as read by title, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

Mr. ECKHARDT. Mr. Chairman, reserving the right to object, I merely want to understand what is meant here. Title I seems to start on page 16.

The CHAIRMAN. As I understand the request, it was as to the first three sections preceding title I.

Mr. ECKHARDT. That they would be read by section?

The CHAIRMAN. The gentlewoman is asking unanimous consent that they be considered as read.

Mr. ECKHARDT. That they be considered as read and then read by title?

The CHAIRMAN. The gentleman is correct.

Mr. ECKHARDT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

Mr. SIKES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am a supporter of the 200-mile territorial limit proposal.

I think everyone knows that our waters have been grossly violated by ships of foreign nationals. Other nations have harassed our crews and our fishing boats. We should know by now that there is to be no help from the Law of the Sea Conference. It is time for Congress to act, and I support the effort. [Sec. 2]

I do have a concern that I want to discuss, but before I express it, let me say that I have confidence, respect, and esteem for the gentlewoman from Missouri, the chairman of the committee, for the distinguished ranking member, for the chairman of the subcommittee, and for the gentleman from Massachusetts (Mr. Studds), the sponsor of this legislation, who has worked very hard to bring it to the floor.

Mr. Chairman, concern has been expressed to me from a number of sources about the possible effect of this bill to extend control of the seas to the 200-mile limit. Most of us who support the principle of a 200-mile limit simply want to extend U.S. control to that distance in order to further insure the protection of U.S. interests against the improper fishing practices by other nations in these waters, and to serve as a counter for the claim of 200 miles by other nations, some of which have abused their claim by their actions against U.S.-owned vessels and American crews.

It is the details of the bill that I confess I am worried about. I think they are broader than needed. They present the Federal Government, as I see it, with a vehicle with which to preempt State marine fishing authority. I know that is not the intent of this committee. I respect the members of the committee, and I know that is not what they intend.

But intent will be of little comfort if the Federal Government at some future date decides to fully implement the authority which may be contained in this bill.

Most of the concern appears to be addressed to a failure to define the term, "internal waters." [Sec. 3] Some amendments are being considered to clarify this situation.

There is also concern that the bill will be costly and that Federal licenses [Sec. 303(b) (1) ; 304(d)] will be imposed against U.S. boats, even though they are licensed by their own respective States.

Florida, with a very long coastline and an extensive fishing industry, has a particular interest in this matter.

Mr. Chairman, I had thought to offer amendments to clarify these points, but I am hopeful that an understanding can be accomplished through a dialogue, and I wonder if at this time I may have the attention of the distinguished chairman of the committee or the chairman of the subcommittee.

Mr. LEGGETT. Mr. Chairman, if the gentleman will yield, I would be glad to respond to the gentleman's inquiry.

Mr. SIKES. Mr. Chairman, I am happy to yield to the distinguished chairman of the subcommittee.

Mr. LEGGETT. Mr. Chairman, I will state that I have reviewed extensively the views of the gentleman which he has communicated to me individually and which have been communicated to the committee by the State of Florida through Mr. Harmon Shields. I have attempted to respond to the inquiries.

Mr. SIKES. The gentleman mentioned is the head of the department of conservation in Florida.

Mr. LEGGETT. Yes. He raises some very important questions. I believe I responded to those in the Record in my statement and in my remarks in general debate.

Very simply stated, we do not intend to usurp State jurisdictions. [Sec. 306] We intend to give States every right and every opportunity to make their own plans and hopefully they will be in accord with any Federal plan that may be developed. [Secs. 302; 303; 304] We give the Governors of the States the opportunity to appoint members to this committee. [Sec. 302]

We are going to ask for local experts from the various States to participate on the Fishery Council to promulgate these plans. [Sec. 302]

It is only in that rare situation such as when we have two States which may have conflicting views, such as the State of Florida has right now with respect to control of the spiny lobster, where there is a conflict with some of the sister States, that we would attempt to go into that area. [Sec. 306]

If the gentleman will yield further, I would like to say that then, as in the spiny lobster bill, as soon as States enact legislation conforming or as soon as States conform, the Federal jurisdiction would immediately evaporate. [Sec. 306]

Again, Federal jurisdiction would not come into play automatically. It would only come in where we had this impasse. States would have an opportunity for notice and for hearing, and it is the intention of our committee, to very precisely oversee the interrelationship between these councils and the administrator of NOAA and the Secretary of the Department of Commerce so that we do not get into the situation where the Federal Government is running State fishery activities. That is not our intention whatsoever. [Sec. 306]

Mr. SIKES. I have seen the remarks of the distinguished gentleman from California (Mr. Leggett), which appear in the Record, at an earlier point. I am reassured by his statement at that time, but I thought it well to have his colloquy so that the intent of the committee on the legislation is clearly understood. [Sec. 306]

If I might have a similar statement from the distinguished chairman of the committee, I would appreciate it very much.

Mr. SIKES. I had asked for assurance that this legislation is not intended to give the Federal Government a right to preempt State marine authority, nor is it intended to usurp the rights of the States to control their own territorial waters. [Sec. 306]

Mrs. SULLIVAN. I agree with what my subcommittee chairman just said, because the subcommittee went into that matter thoroughly, and I think his explanation is clear. [Sec. 306]

Mr. LEGGETT. If the gentleman will yield further, I might state this, that this fishery program is not going to be effective unless we have the full support of the State fish and game departments of each of the various coastal States. There is no way by which we are going to be able to do the job otherwise, so we are going to have to work synergistically, and that is the intention of the committee.

Mr. SIKES. Mr. Chairman, I thank my distinguished friend, the gentleman from California (Mr. Leggett).

AMENDMENT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer an amendment.
The Clerk read as follows:

Amendment offered by Mrs. Fenwick: Page 7, line 16, after the word "the," insert the word "Interim"; page 10, line 20, after the word "establishing" insert the words "until an international agreement on the subject shall have been concluded." [Secs. 2; 401]

Mrs. FENWICK. Mr. Chairman, I must confess that it is sad that the United States should ever be anywhere but in the forefront of those who uphold international law and security, and the rule of law in the world.

Nevertheless, I think that with certain amendments we can support this as an interim measure. [Secs. 2; 401]

I draw the attention of the House to the first page of the bill, where the title says "To extend on an interim basis * * *" [Secs. 1; 2; 401]

The two amendments here, in other words, are merely reiterating the title of the bill itself, which sets the tone of the whole bill.

Mr. Chairman, I urge the adoption of these two changes and of this amendment.

Mr. LEGGETT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I know the gentlewoman from New Jersey (Mrs. Fenwick) supports the intent of the legislation.

She is concerned about international law.

Her interim amendment would attempt to preserve whatever international law we have and have this bill evaporate when the international law comes into effect as a result of the Law of the Sea. [Secs. 2; 401]

Unfortunately, I cannot agree, on behalf of the committee, to the amendment because there is a considerable interest in the record which we are setting up in this bill. There are benefits for tuna fishermen which we are setting up in this bill [Sec. 403], and we do not intend that these benefits be an interim measure. [Sec. 401]

If international law does come to fruition as a result of a law of the sea which everybody can agree upon, not conceding for a minute that what we are doing here in this legislation is not totally consistent with international law, we will need this interest record. [Sec. 401]

We will need this infrastructure, we will need a bill just like this.

As far as the second amendment that the gentlewoman from New Jersey has brought up, we would have to resist that because it would be substituting in the sanctions provision where the Secretary of the Treasury is called upon to embargo the fish products of other nations that do not cooperate with the United States. [Sec. 205]

Mrs. FENWICK. Mr. Chairman, if the gentleman will yield further, that is not in this amendment.

Mr. LEGGETT. Mr. Chairman, I am sorry. I will withdraw that.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield further so that I might comment on his statement?

Mr. Chairman, the word "interim" is included in the bill in the original explanation of the bill. It just seems to me that if that is proper and fitting, if we are to mean it that we ought to put it where it would be clearly understood that this would be an interim measure and it would be in effect until an international agreement shall supersede it. [Secs. 2; 401]

Mr. LEGGETT. Mr. Chairman, I know that the gentlewoman from New Jersey has not been connected with this legislation for the 3 years and the many, many hours that we have, but we have included the word "interim" a number of times in this bill in the proper places. If we put the request of the gentlewoman from New Jersey in the findings, then some smart lawyer might come along and try to condition the bill on the words of the gentlewoman from New Jersey which might cause some confusion, and for that reason we think it is more confusing than it is helpful. [Secs. 2; 401]

Mr. FRASER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, would the Clerk kindly report the amendment again?

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mrs. Fenwick: Page 7, line 16, after the word "the," insert the word "Interim"; Page 10, line 20, after the word "establishing" insert the words "until an international agreement on the subject shall have been concluded." [Secs. 2; 401]

Mr. FRASER. Mr. Chairman, I was trying to understand the colloquy between the gentlewoman from New Jersey (Mrs. Fenwick) and the gentleman from California (Mr. Leggett).

As I understand the amendments that the gentlewoman has offered, the first one simply describes the act as an interim act. The explanation of the gentlewoman from New Jersey is that in due course we hope there will be a law of the sea agreement. [Secs. 2; 401]

The second amendment qualifies the extent of an exclusive fisheries conservation management zone by indicating that this would only prevail until a new regime was established under international agreement. [Secs. 2; 401]

May I ask the gentlewoman from New Jersey, am I interpreting the amendments correctly?

Mrs. FENWICK. Most correctly.

Mr. FRASER. And the qualifications that are added by these amendments do not reach to the provisions of the bill, some of which may be, or some of which are intended to be, permanent. [Secs. 2; 401]

I must say that I do not see any difficulty with the amendments offered by the gentlewoman from New Jersey.

My purpose in rising was to see if I could understand the thrust of them.

It seems to me that while it would not cure my objection to the bill, it would seem to be an improvement.

Mr. LEGGETT. Mr. Chairman, I would state that the amendments offered by the gentlewoman from New Jersey (Mrs. Fenwick) are conditioned on an interim agreement on the subject shall have been concluded. It does not indicate that they shall have been ratified by the United States. We cover that situation under section 205, Multilateral Convention, where it states: [Sec. 401]

If the United States ratifies a multilateral convention resulting from any United Nations conference on the Law of the Sea which contains provisions with respect to the breath of the territorial sea and the fisheries or economic zone, the Secretary, in consultation with the Secretary of State, may promulgate . . . regulations. [Sec. 401]

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey.

The amendment was rejected.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Eckhardt: On page 9, strike lines 15 through 20.

[Sec. 2(a) (2)]

On page 12, strike lines 19 through 22. [Sec. 2(c) (2)]

Mr. FORSYTHE. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New Jersey.

Mr. FORSYTHE. I thank the gentleman for yielding.

I do not have a copy of that amendment. Do we have copies available?

Mr. ECKHARDT. I do not. It is the more striking, if I may state it again, of item 6 on page 9 [Sec. 2(a) (2)] and item 8 on page 12.

[Sec. 2(c) (2)]

Mr. Chairman, I do not believe that this amendment, if passed, would hurt the bill, and it is not offered in that sense. I am not up here to remove from the bill its necessary declarations of policy, but I think that these two declarations are really not soundly based, and I believe that they would also be mischievous to the bill itself if they were included. I shall here attempt to state why. [Secs. 2(a) (2); 2(c) (2)]

Item 6 [Sec. 2(a) (2)] seems to indicate that there is in fact no regime of law governing the right to take fish on the high seas. Of course, it is qualified by saying "except for specific international agreements." But I believe there is in fact a regime of law that covers this subject. It may be that we may have the power to legislate contrary to that regime of law, but there is no point in our stating a matter which is not soundly based in fact in the purpose clause.

The situation is this. In 1958 there were four conventions in the United Nations which codified the prevailing laws of the sea. There was the Convention on the High Seas, which really became customary international law. It was signed by all of the seafaring nations, including the Soviet Union and the United States.

There was the Convention on the Territorial Sea and Contiguous Zone; the Convention on Fishing and Conservation of the Living Resources of the High Seas which, as has been said here, the Soviet Union did not sign but we signed; and the Convention on the Continental Shelf. These four conventions, and particularly the first one,

clearly reiterated the rule that had existed since 1608 at least, expounded originally by Hugo Grotius, that on the high seas themselves every nation had equal resource or equal opportunity to fish without limitation.

Since that time a fishing zone of 12 miles enjoys the status of being established as customary law and therefor as international law, because all of the maritime nations and the fishing nations recognize at least that much territory. But with respect to the territory outside 12 miles and up to 200 miles and on out, there does exist in fact a regime of law that controls that situation at the present time. Here freedom of the seas and of fishing is the regime of law.

If it may arguably be said, and I am sure that it will be said by members of the committee, that a State may unilaterally extend its right, its area, its fishing zone beyond 12 miles, it will not add anything to put that self-serving statement in section 6. **[Sec. 2(a)(2)]** I think section 6 is at most erroneous and at least confusing.

But the main section that I think should be stricken is that section on page 12 which is paragraph (8), lines 19 through 22. **[Sec. 2(c)(2)]** Let me ask the Members to listen to this for a moment and tell me if the very language of the act does not state or imply that it is in violation of international law. It says:

not to authorize any impediment to, or interference with, lawful activities on the high seas, except with respect to the protection and conservation of fisheries resources as provided by this Act. **[Sec. 2(c)(2)]**

That states in effect that there is one interference with lawful activities on the high seas which is purported to be justified under this act and that is the protection and conservation of fisheries resources as provided in this act. **[Sec. 2(c)(2)]**

Why should the act itself gratuitously say that we are interfering with lawful activities on the high seas? What does that add? It seems to me it only admits that the act is contrary to international law in that respect. **[Sec. 2(c)(2)]**

I would like to ask the members of the committee: What conceivable advantage will these two sections give the law? Do they create an atmosphere in which the courts are likely to uphold the law which is more favorable than that which would exist if they were left out? I would suggest they do not because the last section even implies that international law is violated by this act. **[Secs. 2(a)(2); 2(c)(2)]**

Mr. LEGGETT. Mr. Chairman, I rise in opposition to the amendment.

The gentleman would seek to strike out paragraph No. 6 **[Sec. 2(a)(2)]** which really sets forth in a rather fishermen international kind of way that we have problems with respect to the Law of the Sea and that is the reason we have this legislation and a conference on the Law of the Sea. It points out there is no regime of law now because we have 40 different nations that have all claimed different jurisdictions which have caused considerable confusion. **[Sec. 2(a)(2)]**

Second, with respect to paragraph No. 8 **[Sec. 2(c)(2)]** where we talk about the only thing we are affecting on the high seas is fishing, it is to reaffirm that the 3-mile limit still applies, but anything beyond 3 miles is the high seas, and that the only activity in that area that we intend to relate to is, not oil, not drilling, not submarine cables, not navigation, but the only thing we relate to is fishing and that is the only place for that language. **[Sec. 2(c)(2)]**

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield on that point?

Mr. LEGGETT. I yield just for a question.

Mr. ECKHARDT. In this respect I am not trying to hurt the act but I think the gentleman's legislative history here does hurt the act when he says we are admitting that all beyond the 3 miles is the high seas. The only way we can justify this act is to say we have the right to enlarge the fishing zone beyond 12 miles. [Sec. 2(c)(2)]

Mr. LEGGETT. But that does not change the high seas. [Sec. 2(c)(2)]

Mr. ECKHARDT. If the gentleman is admitting that he does change the area that constitute the high seas he is running this law directly into the teeth of the convention. [Sec. 2(c)(2)]

Mr. LEGGETT. No, I am talking about the single text of the Geneva Convention, that we are just negotiating right now.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield.

Mr. BINGHAM. Mr. Chairman, let us get this clear. The gentleman is saying, as I understand it, that the high seas limit as far as the United States is concerned is everything beyond 3 miles? [Sec. 2(c)(2)]

Mr. LEGGETT. Has been, is now, and always will be. [Sec. 2(c)(2)]

Mr. BINGHAM. And this bill does not purport to change that except for fisheries? [Sec. 2(c)(2)]

Mr. LEGGETT. That is right.

Mr. BINGHAM. I thank the gentleman. I will come back to that.

I would say the gentleman's amendment points up a very interesting fact about this law, but all the paragraphs do is claim what the bill does, so I do not see how the paragraphs are in any way inconsistent with the bill. [Sec. 2(c)(2)]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Eckhardt).

The amendment was rejected.

AMENDMENT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Conte: On page 15 of H.R. 200, lines 6 through 10 [Sec. 3(14)], delete the following:

"(13) The term 'highly migratory species' means any species of fish which spawn and migrate during their life cycle in waters of the high seas, in and outside the fisheries zone, including, but not limited to, tuna; but excluding halibut, sablefish and herring." [Sec. 3(14)]

And insert in lieu thereof, the following:

"(13) The term 'highly migratory species' means those species of tuna which spawn and migrate during their life cycles in waters of the high seas, in and outside the fisheries zone." [Sec. 3(14)]

Mr. CONTE. Mr. Chairman, I rise to propose an amendment to H.R. 200, designed to protect the various species of gamefish, which are otherwise not included in this bill. [Secs. 2(b)(2); 3(14); 103]

H.R. 200, as drafted, exempts highly migratory species from Federal Fisheries Management Authority. Unfortunately, highly migratory species, as defined in international agreements, contain a wide variety of salt water gamefish that are in danger of extinction. [Secs. 2(b)(2); 3(14); 103]

One of the reasons for excluding these particular species might be that existing international fisheries organizations and treaties provide sufficient authority for management of highly migratory species and that no conservation problem exists with respect to this classification of fish. I should like to refute these assertions from the onset. International fisheries organizations are not constituted with sufficient legal authority and enforcement capacity to actually manage the fisheries and, therefore, have no effective control. In addition, the greater the exploitation of the fish, the less effective the management mechanism becomes. A prime example of this management problem is the International Whaling Commission—IWC—which was proven to be less than effective. [Secs. 2(b)(2) ; 3(14) ; 103]

I would now like to explain the rationale behind my amendment. Section 301 at page 37 of H.R. 200 states that authority under this "act does not extend to highly migratory species." [Sec. 103] The section continues to state that these species of fish "shall be managed pursuant to international fishery agreements established for such purpose." [Secs. 2(b)(2) ; 103]

I should like to note that, as of this date, no commission agreement or international treaty on billfish, the largest representative of salt-water gamefish, is now in force or even contemplated. We should all keep in mind that highly migratory species is defined by international treaty agreement and international law as including such varieties of gamefish, such as swordfish, sailfish, sharks, dolphins, marlin, and tuna. [Secs. 2(b)(2) ; 3(14) ; 103]

Section 3(13) at page 15 [Sec. 3(14)] of the bill excludes tuna from the jurisdiction of the act, by stating that the tuna shall be considered a "highly migratory species." That section further provides that "highly migratory species" is "not limited to" tuna. The section then goes on to set out halibut, sablefish, and herring as the only exclusions from the meaning of "highly migratory species" within the meaning of this act. [Sec. 3(14)]

Thus, it is clear gamefish such as swordfish, marlin, sailfish, sharks, dolphins, and so forth, go without the protection of this act. Even if it was the committees' intent to put these gamefish within the protection of the act—it is of no legal consequence. Legislative intent is only considered when a piece of legislation displays a patent ambiguity. [Secs. 2(b)(2) ; 3(14) ; 103]

Because the bill does not demonstrate such ambiguity and on its face one can decisively conclude that gamefish do not come under the jurisdiction of the act—the matter is now closed. [Secs. 2(b)(2) ; 3(14) ; 103]

I would like to mention that my amendment will not alter the committee's decision to exclude all species of tuna from the jurisdiction of this bill. It is quite simply designed to protect all gamefish, which are in such desperate need of conservation and management controls. [Secs. 2(b)(2) ; 3(14) ; 103]

We should note that the level of catch remained fairly constant for a substantial period and has declined more than 70 percent since 1964. Further, we should note that the size of the fish suggests that we are suffering from a lack of sufficient medium and large size fish to spawn sufficient juveniles to maintain the young fisheries. Unless there are large numbers of medium and large size fish in areas now unknown to

us—the exploitation of the remaining population will leave us with no spawning stock. The end result could be extinction of many valuable species of gamefish within the next decade. The catch rate—fish per 1,000 hooks—for the white marlin declined from 2.06 in 1962 to 0.80 in 1970. This is a 61-percent drop in only 8 years. The blue marlin catch rate fell from 3.81 in 1966 to 0.29 in 1970. This represents a 92-percent decline. [Secs. 2(b)(2); 3(14); 103]

One of the foremost fisheries scientists in the world is Dr. Shoji Ueyanagi—Show-joe Way-na-gee. He has conclusively determined that, with the declining catch rate, there is a simultaneous decline in the size of the fish taken. The conclusion is, unfortunately, a drastic decrease in the relative abundance of the fish. It is clear that stock is being adversely affected by overfishing. Because tuna are excluded from this bill, the United States would still retain a substantial degree of flexibility in any treaty negotiations. [Secs. 2(b)(2); 3(14); 103]

Inclusion of billfish and other gamefish, which have little or no interest to commercial fishermen, would have no impact on treaty negotiations. It is our duty to safeguard the future of these splendid fish before they are rendered to nothing more than museum pieces. [Secs. 2(b)(2); 3(14); 103]

I would like to advise that the language of my amendment is very similar to the corresponding provision in S. 961, which is the Senate version of H.R. 200. The Senate Commerce Committee recognized the need to include gamefish in this bill and changed the language in the full committee markup to include game fish. I understand a substitute for S. 961 containing this new language will be filed by the Senate Commerce Committee this afternoon. [Secs. 2(b)(2); 3(14); 103]

Every fisherman has a dream similar to Hemingway's "Old Man and the Sea" who one day caught the prized marlin. Let me reiterate the fact that no commission agreement or international treaty on billfish or gamefish is now in force, or even contemplated. If we continue to allow the useless exploitation and destruction of these beautiful inhabitants of the sea, who have little or no commercial value—we must accept the responsibility for their eventual extinction. [Secs. 2(b)(2); 3(14); 103]

Mr. STRATTON. Mr. Chairman, the time has expired, has it not, so that a regular quorum is required?

The CHAIRMAN. It is within the discretion of the Chair to determine whether to wait longer.

Mr. DU PONT. Mr. Chairman, will the gentleman yield?

Mr. CONTE. Yes. I yield to the gentleman from Delaware.

(Mr. du Pont asked and was given permission to revise and extend his remarks.)

Mr. DU PONT. Mr. Chairman, I rise in support of H.R. 200 and do so having once argued in opposition to this legislation. When legislation similar to H.R. 200 was first proposed, I believed the State Department objections to unilateral U.S. action were valid. At that time, the Law of the Sea Conference was in its early stages and international consensus on the 200-mile economic zone was lacking. Since the Geneva session, two factors have coincided which convinced me that the State Department objections were no longer valid. First, it has become apparent that our coastal fisheries resources are precipitously declining, because of foreign overfishing. [Sec. 2] It is clear that overfishing is

causing irreparable injury to fish stocks. [Sec. 2] Second, the Geneva session concluded with widespread international acceptance of the 200-mile economic zone. The combination of these two factors leads me today to urge prompt action by the House on H.R. 200. There is simply no time left to delay. [Sec. 2]

In support of H.R. 200, I would like to disagree with the series of arguments that have been propounded by the State Department. In objecting to the legislation, they claim that other countries will be prompted by the U.S. action on a 200-mile economic zone to declare off their waters a 200-mile territorial zone. My first response to this charge is that there is no evidence that other countries are unable to discern the difference between declaring a territorial sea and an economic zone. Quite to the contrary, I would assume that other countries like the United States would be inclined to declare a zone which is consistent with the prevailing international consensus—that is the 200-mile economic zone.

I would also add as a practical matter that as long as the 200-mile economic zone has gained international acceptance, it would be foolish for us to allow our resources to be depleted further while we wait for the Law of the Sea Conference to finish work on other issues such as deep sea mineral rights. I have every reason to believe that foreign fleets would continue to increase their activities off our coastline and to take as much fish out as they can before the 200-mile economic zone becomes effective through the Law of the Sea Convention. It seems we have everything to lose and nothing to gain by delaying any further. [Sec. 2]

One of the underlying assumptions behind the Department of State opposing this bill is that the Law of the Sea Conference will soon conclude a treaty that will be ratified by the United States. I disagree on two grounds. First, there is evidence that at least two more sessions are needed to complete work on the conference. In addition, one of the most volatile issues still remains to be resolved—the deep sea minerals issue. From what I have seen of negotiating texts, we seem to be a long way away from resolving this question. Second, even if a convention is completed, there is growing evidence that the deep sea mineral provisions may be so unacceptable to U.S. interests that the convention might not be ratified at all by the United States. Given these obstacles, it seems the State Department may be willing to bargain away our fishing resources while the Law of the Sea Conference founders.

There is no question about the need to take drastic steps to restore our depleted fish stocks and as long as the 200-mile economic zone has gained general international acceptance, I can see no valid reason for delaying remedial action any further. I urge all my colleagues to vote favorably for H.R. 200. [Sec. 2]

Mr. LEGGETT. Mr. Chairman, we consulted in the interim.

This side is satisfied with the amendment. The gentleman's definition will probably enhance the bill. This side is agreeable to accepting the amendment offered by the gentleman from Massachusetts (Mr. Conte). [Sec. 3(14)]

Mr. FORSYTHE. Mr. Chairman, will the gentleman yield?

Mr. CONTE. Yes, I yield to the gentleman from New Jersey.

Mr. FORSYTHE. Mr. Chairman, we are pleased on this side also to agree to accept the amendment offered by the gentleman from Massachusetts (Mr. Conte). [Sec. 3(14)]

Mr. HUGHES. Mr. Chairman, I rise in strong support of the amendment offered by the distinguished gentleman from Massachusetts (Mr. Conte). While the committee should be commended for drafting this excellent piece of legislation, the Marine Fisheries Conservation Act as written does neglect to protect one important segment of our native fishery resources, the billfish—marlins, swordfish, and sailfish. [Secs. 2(b)(2); 3(14); 103]

The billfish are the most prized catch of sport fishermen. In my native south Jersey, visitors and locals alike engage in recreational fishing. Tourism is the second largest industry in New Jersey, and sport fishing attracts a number of these tourists. Nationally some 34 million sport fishermen cast into our oceans. Sport fishing has a tremendous economic impact, for these anglers support a \$2.6 billion industry. [Secs. 2(b)(2); 3(14); 103]

Present international fisheries organizations do not provide the necessary protection for these magnificent animals. The current international agreements are toothless and lack effective enforcement procedures. Without inclusion under H.R. 200 these fish are threatened by further depletion, to the detriment of the tourist industry in New Jersey and of sport fishermen everywhere. We cannot abrogate our responsibilities to expand protection under this act to include the billfish, and I wholeheartedly urge my colleagues to join me in voting for this crucial amendment. [Secs. 2(b)(2); 3(14); 103]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. Conte). [Sec. 3(14)]

The amendment was agreed to.

PREFERENTIAL MOTION OFFERED BY MR. STRATTON

Mr. STRATTON. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Stratton moves that the committee do now rise and report the bill (H.R. 200) back to the House with the recommendation that the enacting clause be stricken.

Mr. STRATTON. Mr. Chairman, I have not been here for all of this debate, but I have been here for a substantial portion of it.

I am disturbed that one of the national security implications of this legislation have so far been addressed in this debate.

I heard one Member complain because the bill had not been referred sequentially to the Committee on International Relations. I think it should have been referred sequentially to the Committee on Armed Services as well, because what we are dealing with here today is something that immediately, perhaps, concerns our fishing industry, but over the longer run could also concern our national defense very seriously.

It is my understanding that the participants in the Law of the Sea Conference are fairly close to agreement on a 200-mile resources limit,

but it is my information that if we proceed unilaterally to enforce a 200-mile limit ourselves, we could break up that conference, and that would be very serious, for this reason: There are not one but two important limits for us to be concerned about.

First is the resources limit and that, roughly, is the thing we are talking about in this bill, the area to which you can go out to fish, as well as the mineral rights under the sea and things of that kind. [Sec. 101]

There seems to be a broad agreement that this 200-mile limit is a good one [Sec. 101], although the gentleman from San Diego (Mr. Van Deerlin), I think, is opposed because that would complicate the problem of his tuna fishermen down off the coast of Peru and Ecuador. But the limit that everybody has lost sight of is the navigation limit, the territorial limit. [Secs. 2(c) (1); 2(c) (2)] Those are the limits that determine what happens to our Navy and to the Navies of the world and also to our important merchant shipping, including our oil imports from the Persian Gulf.

What is likely to happen is that if by this ill-conceived, unilateral action we destroy the possibility of an agreement in the Law of the Sea Conference, then we are not going to get what we want most of all, a 200-mile resources limit at the same time that we get a 12-mile or even a 3-mile international territorial limit. And it is very likely that what we are doing here today could end up by disrupting the whole conference and with many nations around the world declaring a 200-mile territorial limit on their own.

Let me point out to the Members on this chart just what monumental damage this would do to our defenses as well as to our economy.

What would it do to our Polaris submarine fleet and to our commercial fleet? Well, it would close every major strait in the world. It would close the Straits of Gibraltar and so our nuclear submarines at Rota would be unable to get into the Mediterranean and probably the 6th Fleet would be unable to get into the Mediterranean as well.

It would close off all of the Red Sea and the Gulf of Suez; and the important Port of Eilat in Israel, which you may recall was the immediate cause of the 1967 war, would be cut off completely.

It would cut off the Persian Gulf where all of our oil comes from, as well as the oil for much of the rest of the world.

It would cut off the important Straits of Malacca which we have to use to get into the Indian Ocean with our nuclear submarines and our conventional ships. We would have to go south of Australia instead.

Here is another chart which will illustrate what I am talking about even more dramatically.

Mr. BAUMAN. Mr. Chairman, does not the gentleman from New York have to discuss the contents of the bill rather than the contents of his imagination under the pending privileged motion?

The CHAIRMAN (Mr. Smith of Iowa). The Chair will state that the gentleman from New York must discuss the pending motion.

Mr. STRATTON. Mr. Chairman, the Member is addressing the pending bill and what the passage of this bill will do to our naval power.

I think it is important that the Members of the Committee of the Whole be aware of what is before this body. That is why I propose to strike the enacting clause, as my motion provides.

Mr. Chairman, all these pink spaces represent the seas that would be denied to us if a 200-mile territorial limit were adopted throughout the world. Thirty-six percent of the ocean will be denied to our submarines and surface ships. Our nuclear, invulnerable deterrent, the Polaris, the Poseiden, and the Trident nuclear submarines would not be able to sail in the pink areas, and that is no joke. That is why the Joint Chiefs of Staff and the Department of Defense oppose this bill in its present form. This is one of the reasons that the State Department opposes it.

If we wanted to get from the Pacific into the Indian Ocean, for example, we would have to go all the way around South of Australia.

Let us not start down that road and place our naval power and also our air power in jeopardy because this limit would of course also apply our rights of overflight. It would seriously cripple our air power.

Mr. STUDDS. Mr. Chairman, I rise in opposition to the privileged motion and to the contention of the gentleman from New York that Chicken Little was right.

If the Members would look at the awesome areas of pink on the map which has been presented to us, one would think that the entire Arctic Ocean was gone forever.

The simple response to the gentleman from New York is that the legislation does not extend or affect in any way the territorial sea of this or any other country, and we affect in no way whatsoever the rights of this or any other nation beyond the territorial limits which are now and will remain 3 miles with or without this legislation. In no way do we affect rights of passage in narrow straits or any other freedom of the high seas, other than the jurisdiction over fisheries. The reason the Committee on Armed Services did not receive jurisdiction over this bill is, No. 1, because they have no such jurisdiction under the Rules of the House; and, No. 2, because they did not request it. But it might come as some enlightenment to the Members to know that in the other body where the rules are somewhat different and somewhat looser, the Committee on Armed Services of the U.S. Senate did receive sequential jurisdiction last winter, and, wonder of wonders, it favorably reported this bill by a vote of 9 to 8, as I recall, a favorable report from the Senate Committee on Armed Services.

Testifying at that time was the Chairman of the Joint Chiefs of Staff, General Brown. Although the Members will not find this testimony in the transcript of the hearing because the Department of Defense exercised their privilege of excising it subsequent to clearing it, the Chairman of the Joint Chiefs was asked by Senator McIntyre:

General, if every nation in the world did precisely what the United States proposed to do in this legislation, would it in any way affect the security of the United States?

The answer was "No."

Then the General was asked:

Has any nation, to your knowledge, threatened to take any action prejudicial to the national interest and security of the United States if we were to pass this law?

And the Chairman of our Joint Chiefs of Staff said, "No."

Mr. Chairman, I urge defeat of the motion.

The CHAIRMAN. The question is on the motion offered by the gentleman from New York (Mr. Stratton).

The motion was rejected.

The CHAIRMAN. The first three sections of the bill are open for amendment. Are there further amendments to those three sections?

Mr. BENNETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened to every word of this debate, and the only reason I have not talked before now is because of the fact that I was not allowed any time on either side. I do not blame anybody, because the time was already used up. But I wanted to talk, and I wanted to talk along the line that my very eloquent predecessor talked here, because I am chairman of the Seapower Subcommittee and I am on this Advisory Board of the Law of the Sea.

I have never taken any trips in my entire career. I never have been anywhere, but I do go down to the Department of State when they have their backup meetings there working on the law of the sea. I spend days down there, and they are pretty painful days, because the discussions are pretty rough and pretty tough as to how they are going to get a proper type of law of the sea in the end. This is not any striped-pants proposition; it is hard work and very unpleasant. I have to stay down there all day long and listen and try to participate in how we are going to try to work out these matters. There is no champagne; in fact, there is not even a cookie given to us during the whole day. One has to go out and buy it if one wants to get it. I take off some time on my vacations, if I want to do it.

I come from sea towns. The first third of my life I spent in Tampa, Fla. I am familiar with fishermen and their problems. The last two-thirds of my life I spent in Jacksonville, Fla. I have represented a lot of sea towns. Today I represent two, Fernandina and Mayport. These cities are hundreds of years old. They have always been sea towns. One of them is about 400 years old—Mayport. So I am rather familiar with the seaman, the man who goes to sea to get fish.

The fishermen in my area primarily fish for shrimp, and they do not like this bill. Why do they not like the bill? They do not like the bill because their livelihood will be imperiled by this bill, because it will encourage other countries to do the same sort of thing that we are doing here and will cut off the shrimp, just as Mexico did the other day. And the other places where they get shrimp will be cut off. The bulk of the shrimp and fishing industry of the United States of America has nothing to gain by this bill, nothing at all to gain dollarwise.

Our largest fish business in the United States is in shrimp, tuna, salmon, and other fish of that type, so the bulk of it is not going to be helped by this bill at all.

I want to say one other thing. I have seen Congress now in the last week or so do some rather strange things. There was a President of the United States whose name was Teddy Roosevelt. He said, "Speak softly and carry a big stick." We are carrying a little, tiny, "itty-bitty" stick, and we are speaking awfully loud.

If the present situation is that we cannot do anything about enforcement in 12 miles, what do the Members think is going to be done about 200 miles? [Sec. 311] Do they want the national defense of our country to put hundreds of millions of dollars in policing that area? If we cannot police 12 miles, how are we going to police 200 miles?

Passing this law is just going to be drawing the line and asking somebody to step over it. That is what it is. Do we want to be confronted with that?

The gentleman from New York (Mr. Stratton) has already pointed out why the Defense Department is opposed to this. General Brown may have said, and it is quite true, and we might well have said it, that if all nations of the world would pass this bill there would not be any great national defense matter. But they would not pass this bill. They did not when President Truman extended the line. What did they do? They extended the lines of their sovereignty over the sea and used President Truman's extension over fishing to say: "Therefore we are entitled to do the whole works." They would use this to keep the submarines out. If the submarines came into their waters our submarines would have to surface.

Incidentally we would not even be able to fly airplanes over that area because absolutely the same law obtains.

It would be a great folly to enact this law. It would be a folly because we pick out only a small portion of the fisheries to help and we would hurt other portions of the fishing industry, the larger part. Those hurt are as entitled to be considered as anybody else.

The retaliation will hurt. It has already hurt. The retaliation has always taken place.

We would be imperiling our Polaris and Poseidon and Trident and other nuclear submarines, because they would not be able to hide in the sea.

We have to admit that our nuclear deterrent force is the most magnificent achievement of our defense, because we have not had a nuclear war; and we do not have a nuclear war because it is known by the Russians that if they strike us with nuclear weapons we can obliterate them after they have obliterated us.

That is a horrible thought, but that is what our deterrent is. That is what a nuclear deterrent is. That is why we have the Polaris and Poseidon and Trident. We ought to be glad we have them as our nuclear defense to deter the starting of nuclear war. The passage of this bill would encourage other nations to unilaterally extend their sovereignty into areas of the ocean where these submarines can now hide.

Mr. BENNETT. Mr. Chairman, I just want to amplify a little bit on what I said a moment ago about carrying the big stick and speaking softly. We cut \$9 billion out of the national defense the other day, after already cutting out billions of dollars in authorizations and then what else did we do the other day?

We said we are going to do something big in the Middle East and take on that big responsibility and place a trigger of 200 technicians there. I ask the Members to remember that may be another war, that

may be Armageddon, that may destroy all mankind. We took that on very easily.

But at the same time, when our Navy says absolutely they have to start 35 new ships this year, we gave them only 21 ships. Our Navy is being depleted, our national defense is being destroyed, and we are taking on more responsibilities all the time. We are not credible as a nation today. The world knows we are not credible. Only we do not know it.

I want to say another thing. The heart and the good part of this bill is conservation [Secs. 2; 101], but the good part of this bill is already being accomplished. In a meeting on September 28 in Montreal, Russia agreed it would go along with these conservation ideas but they said that they would not agree to the 200-mile proposition we are considering here but that they will work with us on conservation.

Suppose we enact this and the Russian trawlers come off the coast of the United States. Are we going to send our Navy there, our Navy which does not have enough ships to take care of what we already must take care of?

I want to lay this on the conscience of the Members and ask them to defeat this bill because I think it promises something we cannot achieve; and it does something that is dangerous to the fishermen in my district and to most of the fishermen we have in this country; and it is a bluff by us that we are in no position to sustain.

The CHAIRMAN. There being no further amendments to the first three sections, the Clerk will read title I.

The Clerk read as follows:

TITLE I—ESTABLISHMENT OF UNITED STATES FISHERIES CONSERVATION AND MANAGEMENT ZONE EXTENDING TO THE 200-MILE LIMIT

[Sec. 101] SEC. 101. ESTABLISHMENT OF FISHERIES CONSERVATION AND MANAGEMENT ZONE.

There is hereby established a fisheries conservation and management zone (hereinafter referred to in this title as the "zone") contiguous to the territorial sea of the United States. The seaward boundary of the zone shall be a line drawn so that each point on the line is 200 nautical miles from the baseline from which the breadth of the territorial sea is measured.

[Sec. 102] SEC. 102. EXCLUSIVE RIGHTS OF UNITED STATES WITHIN ZONE.

The United States will exercise the same exclusive rights in respect to fisheries in the zone as it has in its territorial sea. Fishing by foreign states within the zone will be permitted as may be recognized on or after July 1, 1976, by the United States pursuant to the provisions of this Act.

[Sec. 101] SEC. 103. ADJUSTMENT OF BOUNDARY.

Whenever the President determines that a portion of the zone conflicts with the territorial waters or fisheries zone of another country, he may establish a seaward boundary for such portion of the zone in substitution for the seaward boundary described in section 101.

【Sec. 306】 SEC. 104. STATE JURISDICTION.

Nothing in this Act shall be construed—

- (1) as extending the jurisdiction of any State to any natural resource beneath and in the waters within the zone;
- (2) as diminishing the jurisdiction of any State over any natural resource beneath and in its internal waters; or
- (3) except as may be provided pursuant to section 309, as diminishing the jurisdiction of any State to any natural resource beneath and in the waters of the territorial sea of the United States.

【Sec. 402】 SEC. 105. REPEALER.

The Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091-1094), is repealed.

【Sec. 104】 SEC. 106. EFFECTIVE DATE.

This title shall take effect July 1, 1976.

Mrs. SULLIVAN. Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

MOTION OFFERED BY MRS. SULLIVAN

Mrs. SULLIVAN. Mr. Chairman, I move that all debate on title I and all amendments thereto close in 20 minutes.

The CHAIRMAN. The question is on the motion offered by the gentlewoman from Missouri.

The motion was agreed to.

Members standing at the time the motion was made will be recognized for three-fourths of a minute each.

The Chair recognizes the gentleman from Texas (Mr. Eckhardt).

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: On page 17, line 4, **【Sec. 201】** strike the period and add the following: "or as may be the exercise of a right protected by international law or by any treaty to which the United States is a party."
【Sec. 201】

Mr. ECKHARDT. Mr. Chairman, added to the provision now in the bill, what this does is provide that "Fishing by foreign states within the zone will be permitted as may be recognized on or after July 1, 1976, by the United States pursuant to the provisions of this act."
【Sec. 201】 That is what the act now says the provision that the same may be done as an exercise of a right protected by international law or by any treaty to which the United States is a party. **【Sec. 201】**

The author of the bill says this bill does not violate any treaty and does not violate international law. All I do is make sure that the bill will not be used for such violation. [Sec. 201]

MR. FORSYTHE. Mr. Chairman, I rise in opposition to this amendment. I think it is absolutely redundant. It is not needed. It does not add anything to the bill.

THE CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Eckhardt).

The amendment was rejected.

THE CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Anderson).

MR. VAN DEERLIN. Mr. Chairman, I ask unanimous consent that my fat 40 seconds be yielded to the gentleman from California (Mr. Anderson).

THE CHAIRMAN. Is there objection to the request of the gentleman from California?

MR. TALCOTT. Mr. Chairman, I object.

THE CHAIRMAN. Objection is heard.

MR. ANDERSON of California. Mr. Chairman, I would like to say something about conservation and fish stocks. A moment ago my colleague from California, expressed his concern over the status of California fish stocks.

Although I do not doubt the gentleman's good intention in attempting to protect his people's interests, I do question his source of information regarding the take of fish off the California coast.

We should indeed be concerned if our shores are being "raped" of this valuable food resource. But in California, they are not. In fact, the overall catch of California coastal fishermen has dramatically increased over the past 10 years. This increase reflects the six major stocks of fish off California's shores, according to the California Department of Fish and Game. And, this increase does not include tuna landings, the majority of which is caught off foreign shores.

The following chart indicates the California commercial landings of fish, other than tuna, according to the California Department of Fish and Game:

CALIFORNIA COMMERCIAL LANDINGS—OTHER THAN TUNA AND TUNA RELATED FISH
[In pounds]

Year	Rockfish increase	Sablefish increase	Salmon same	Sole (all) increase	Crab (all)	Squid increase	Total (including other minor species)
1965	9,392,424	2,863,550	9,737,775	20,158,546	5,132,592	18,619,893	96,239,198
1966	10,063,592	3,215,939	9,446,995	19,087,738	12,707,233	19,025,879	91,418,873
1967	9,798,951	3,798,493	7,041,729	17,909,130	12,040,874	19,601,972	21,831,532
1968	9,444,396	3,219,455	6,951,931	19,465,137	16,367,238	24,932,173	103,257,521
1969	9,227,451	4,156,846	6,150,906	22,070,122	8,443,072	20,779,382	32,011,964
1970	10,686,844	4,428,077	6,611,522	23,813,431	15,954,200	24,990,805	-----
1971	11,168,746	4,424,463	8,116,878	22,692,905	10,204,997	31,517,408	-----
1972	16,421,252	8,395,714	6,423,289	30,739,726	2,406,531	20,159,312	-----
1973	22,052,455	8,550,071	9,668,984	30,421,922	2,074,336	12,061,632	-----
1974	21,447,169	12,007,479	8,743,564	27,983,345	1,686,105	28,904,680	-----

Note.—Tuna is excluded since 96 percent of it is caught in distant waters.

Source: "California Department of Fish and Game Annual Catch Bulletins," table 15.

The following chart shows the U.S. landing of fish and shellfish from 1960 to 1974:

EXHIBIT 1

U.S. LANDINGS OF FISH AND SHELLFISH—1960 TO 1974—CORRECTED TO INCLUDE PUERTO RICO TUNA LANDINGS
BY U.S. VESSELS

Year	Million pounds	Million dollars
1960	4,962.9	1,356.5
1961	5,218.1	1,365.8
1962	5,382.7	1,399.6
1963	4,884.0	380.7
1964	4,589.4	394.0
1965	4,831.6	452.1
1966	4,430.7	481.4
1967	4,152.9	450.0
1968	4,267.7	512.6
1969	4,433.3	541.9
1970	5,001.9	626.7
1971	5,146.8	675.7
1972	4,894.1	765.5
1973	4,926.3	970.8
1974	5,118.8	957.4

¹ Puerto Rico tuna values calculated using average dollars per pound from U.S. landings each year for yellowfin and skipjack.

Source: Fisheries of the United States, Annuals of NMFS and Fishery Statistics of the U.S., 1971; Statistical Digest No. 65. NMFS.

Mr. Chairman, in conclusion, I suggest that what we have here is a species problem, not a national problem. With so much at stake, the law of the sea negotiations, the survival of the tuna industry, and the exorbitant cost of this bill. I believe we should act to protect those stocks of fish that are in trouble, by legal means through bilateral or multilateral negotiation, rather than unilateral action.

AMENDMENT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer an amendment.
The Clerk read as follows:

Amendment offered by Mrs. Fenwick: Page 16, strike line 21 [Sec. 101] and substitute in lieu thereof the following: "measured, subject to supercession by an international agreement."; [Secs. 101; 401]

Line 23, after the word "Zone" [Sec. 101] insert the following: "until such time as an international agreement shall have been ratified." [Secs. 101; 401]

Mrs. FENWICK. Mr. Chairman, this amendment is again in the spirit of the first amendment I offered, and which failed. This is an effort to reiterate that this is an interim agreement, and that we are ready to stand under the law and such treaties as may be agreed to and ratified. [Secs. 101; 401]

Mr. LEGGETT. Mr. Chairman, I will use my 40 seconds in objecting to the gentlewoman's amendment.

The community of nations have agreed to a 200-mile limit. It is part of this bill, and there is going to be a 200-mile limit after the new law of the sea, if it is ever enacted, so that to make the 200-mile limit an interim affair would not be reasonable. [Secs. 101; 401]

With respect to the statement of my colleague from California, if he will look on page 35 of the committee report, he will find that we used to have 97 percent of American fish caught by Americans, but now they only catch 50 percent.

Mr. GUDE. Mr. Chairman, I rise in support of the gentlewoman's amendment. This legislation has bad features, and this will help to mitigate them to some extent.

I think one important thing that the House should also remember is that, indeed, this legislation is going to cause great difficulty in the transport of oil around the world. We will find that nations will be settling up 200-mile pollution zones and controlling oil transport through their waters by requiring fees. We are going to find that we will have to pay a toll to bring oil to the United States.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. Fenwick).

The amendment was rejected.

Mr. FRASER. Mr. Chairman, I am sorry that the 20-minute time limitation was put on and that Members only have 40 seconds each. That is what concerns me about agreeing to let the whole bill be read, and now it appears that it is true in letting it be read by title.

Some important amendments are going to be offered but I, for one, am not going to be part of debate which is limited to 40 seconds. So, I hope that the managers of the bill will remember this as the debate goes on. There obviously is a problem in having the bill considered as late in the day as this. I asked for time in general debate and got none.

Mr. BEARD of Rhode Island. Mr. Chairman, I support 100 percent the legislation that is before us today. In Rhode Island we have suffered terribly with tremendous unemployment at the rate of 16 percent. A very great part of our industry which has been swept clean like a vacuum cleaner by foreign ships has been our fishing industry. They have destroyed part of our fishing industry. We have to do something. [Sec. 2]

I hope the Members will support H.R. 200 and the 200-mile limit.

Mr. DOWNEY of New York. Mr. Chairman, I rise in strong support of H.R. 200. For over 300 years one of the basic tenets of freedom of the seas has been that all fishermen have open access to fishing stocks in international waters. Until recently, there has been little or no reason for this Nation to restrict the entry of foreign fishing vessels into its coastal waters. However, as a result of the technological sophistication of modern fleets, coupled with their unwillingness to follow basic conservation measures, the time has come when we, as a Nation, must reassess our basic policies. [Sec. 2]

The need for this basic reassessment is absolutely clear. Foreign fishing fleets off this Nation's coasts are threatening to cause the extinction of many of our indigenous species of fish by their unlawful and careless fishing activities. [Sec. 2]

Our commercial and recreational fishing industries are far too important for the Nation to allow these actions to continue. On Long Island alone these industries have a reported worth of \$16 million, and the true value might be far greater. Moreover, the industry is the second largest single employer on Long Island. [Sec. 2]

These domestic fishing activities are absolutely dependent upon the continued stocks of salt water fish off our island's coast. It is well known that Russian trawlers have been threatening our stocks of whiting, ling, herring, and squid, all of which are fished commercially by Long Island's fishing fleet.

Further, New England and the Middle Atlantic fishing regions are now faced with such a drastic decrease in the population of such species as the yellow tail flounder, that we may be forced to reduce the catches of these fish in order to insure their continued existence. Similarly, the press reports have indicated that our coastal fishermen are having to venture farther and farther from our shores in order to find the species they once fished nearby in abundance.

Mr. Chairman, we have before us today a bill that will extend our exclusive fishery zone from 12 miles to 200 miles [Sec. 101] effective July 1, 1976 [Sec. 104], and will require foreign vessels fishing within this zone to acquire a permit from the Secretary of State. [Sec. 204] Given the fact that foreign fishing fleets are larger, better equipped, and more able to travel longer distances than our own coastal fishermen, the need for this legislation is clear. [Sec. 2]

We have already delayed too long. Forty nations have already declared exclusive fisheries zones beyond 12 miles and the three Laws of the Sea Conferences held in the past 17 years have failed to provide any meaningful resolution of the question of ocean jurisdiction. In the meantime, these highly subsidized foreign fleets are moving in on this country's resources and draining them dry. The devastation of fish lift off our shores cannot continue. [Sec. 2]

We, as a Nation, must take affirmative action to require Russia, Japan, and other nations to observe the proper conservation measures of international law in their fishing activities, and we must place a limit on their trawling activities near our coasts. Through the strong leadership of this country we may be able to stop this destruction in time. [Sec. 2]

The time to act is now. [Sec. 2] I urge my colleagues to consider these points carefully and press for speedy and affirmative action on this bill before us.

Mr. DODD. Mr. Chairman, as the Congressman from the seacoast district of Connecticut, I rise to urge my colleagues to vote for this sorely needed measure to establish a 200-mile fishing limit for the United States.

The fishermen from my district, from throughout New England, and from every coastal State in this Nation, need, want, and deserve the protection that this long-overdue legislation can provide. [Sec. 2]

All the people of this country and of the rest of the world, people who rely on our fish resources for much of the protein they eat, need this 200-mile limit, so that already depleted fish stocks can be replenished and so that we can prevent further depletion of these vital food resources. [Sec. 2]

Mr. Chairman, the Marine fisheries conservation act of 1975 is a measure designed to promote the orderly management and conservation of these important fish resources, which have been facing increasingly severe depletion for many years through overfishing by foreign fleets. [Sec. 2]

It is an act designed to give our independent American fishermen the assistance they need to compete on an equal footing with the huge, government subsidized fishing fleets from other countries. [Sec. 2]

It is a piece of legislation designed to permit our Government to utilize legal means to expand its protection of our fishermen from further repetition of careless destruction of gear and lobster pots by these same foreign fishing vessels. [Sec. 2]

But what this act is not, Mr. Chairman, and I emphasize the word "not," is a measure to close our coastal waters to foreign vessels or unfairly restrict them from catching the resources many of them have historically been harvesting. [Secs. 2(c) (4) ; 201(d) ; 201(e) (1)]

It is not an attempt to sabotage the International Law of the Sea Conference. [Secs. 2(c) (5) ; 401]

Nor will passage of this measure have that effect, despite vague, dire warning from our State Department.

Let me tell you why I support this measure for the 200-mile limit, and why I ask all of you to do so. I will list the reasons:

In the first 3 months of 1975, the National Marine Fisheries Service estimated that the Soviet fishing fleet caught between 30,000 and 70,000 metric tons of mackerel above its internationally agreed to annual quota.

I was just informed today by an expert with the National Marine Fisheries Service that because of past overfishing off our Atlantic coasts, herring have been so hard to catch, the stocks have been so depleted, that no country is expected to make its 1975 quota for that species.

This same expert told me that the recent meeting of the International Commission of Northwest Atlantic Fisheries—ICNAF—set a 1976, total catch quota for all member countries that is a full 100,000 metric tons above what our Fisheries Service biologists regard as the best limit to allow for proper replenishment of our fish stocks.

The commercial lobstermen of my own State reported just 3 months ago that despite an ever-increasing demand, the catch this season along the Connecticut shoreline has greatly diminished from past years.

These lobstermen blame overfishing by foreign fleets as a major cause of this scarcity.

Earlier this year, 12 trawlers from our neighboring State of Rhode Island lost an estimated \$160,000 in lobster gear when a large fleet of vessels, believed to be Russian, steamed through their harvesting area and destroyed the equipment.

This list could go on and on, Mr. Chairman, but I think these examples convincingly prove my point—that something must be done as soon as possible to begin protecting our depleted fisheries from unmanaged harvesting, and to protect our American fishermen from unfair, foreign competition and gear destruction. [Sec. 2]

By providing for regional fisheries management plans, which will limit the number of foreign vessels fishing off our shores and set proper catch quotas to insure the best current and future yields from our limited fish stocks, this bill will provide this needed conservation effort. [Secs. 302 ; 303]

By requiring permits for each foreign vessel wishing to fish off our shores, [Sec. 204] this bill will allow our enforcement agencies to keep better track of who is and is not supposed to be casting their

nets in our waters. This will lead to tighter enforcement of our fish conservation laws. [Sec. 311]

By giving our enforcement agencies the legal authority to apprehend offending vessels and take them to courts, where proper penalties will be set, this bill will provide stronger incentives for foreign fishermen to follow established conservation plans. [Sec. 311]

Let me give you an example, Mr. Chairman, of the advantage this specific aspect of H.R. 200 has over the major fisheries conservation agreement now in force—ICNAF.

Under ICNAF, each member country is expected to enforce violations of the agreement by levying penalties on those fishermen of its nationality apprehended by other member nations. All an apprehending nation can do is cite a violator, allow him to go free and continue fishing, and pursue the setting of penalties through slow diplomatic processes.

In essence, we have a situation where we are asking violating nations to police themselves. Mr. Chairman, which I think we all can agree is a somewhat optimistic proposition.

My expert at the Marine Fisheries Service informs me that while some countries, including the Soviet Union, are improving their conduct on the seas, somehow there still are situations where this country cannot be sure offending fishermen actually are penalized by their governments under the ICNAF provisions.

This law assures that justice will be fairly and swiftly meted out by our own Federal courts to violators of our fisheries resources. It will be a message to all fishermen that they will be held more accountable for their actions and that they should be more careful to respect our established conservation measures. [Sec. 311]

Mr. Chairman, I would like to address myself to the three major arguments forwarded against this bill:

That the problem it deals with is only a regional one confined to those of us in the New England States;

That this law is unnecessary now because an international treaty providing for a 200-mile limit will be forthcoming from the United Nations Law of the Sea Conferences;

That unilateral action now by the United States to set a 200-mile limit would set off similar actions by other countries to carve up our ocean resources, and instead of sharing these resources, nations would fight among themselves for them.

First, this is not just a New England problem, Mr. Chairman, and I know this from first-hand experience.

Recently, I traveled to California and Alaska as a member of the House Ad Hoc Select Committee on the Outer Continental Shelf, which held 2 weeks of hearings in those areas.

I also took the opportunity to speak at length with fishermen from these States, and they are suffering just as badly as we are on the East Coast and in New England from the depletion of stocks from overfishing by foreign fleets, mainly from Japan and Russia.

These conversations convinced me more than ever of the great necessity this country has for a 200-mile fishing limit.

This problem is a national problem, not a regional problem, and if we are going to protect the rich food resources of such waters as the

Bering Sea, Gulf of Alaska, and Georges Bank, and protect our fishermen also, then we must pass this legislation immediately. [Sec. 2]

Second, we cannot rely on the Law of the Sea Conference to act quickly on this issue. It has failed to do so thus far, and it is unclear at best that there will be a satisfactory result from the New York conference in March. There are some predictions we will have to wait until the next session after that one.

We cannot and must not wait, Mr. Chairman, because our fish resources already are dangerously depleted, and our fishermen need the protection now. Further delay will only increase the problem. [Sec. 2]

I might add, also, that contrary to what opponents of H.R. 200 are saying, this bill will not make agreement at the Law of the Sea Conference impossible, nor will it undercut any treaty which would result from such a gathering.

This bill, in fact, contains a provision allowing for the regulations issued pursuant to this act to be changed to conform to a future Law of the Sea Convention. [Sec. 401]

Last, Mr. Chairman, unilateral action to extend fisheries zones has already been taken by almost 40 nations in the world. Just recently, Canada warned its ICNAF colleagues that unless its fish stocks were better protected, it was considering extension of its fishing limit beyond 12 miles.

Only Tuesday, the President of Mexico told the United Nations General Assembly his country would establish an exclusive economic zone a full 200 nautical miles from its coasts.

The reason for this action is that Mexico expects there will be a considerable delay in getting a multilateral treaty at the Law of the Sea Conference.

So the argument that U.S. unilateral action will set off a "200-mile-limit race" does not hold. Other countries are not waiting to see what we will do. They are going ahead with actions which they regard as in their best interests to protect their fishermen and fish resources.

This country can do no less, Mr. Chairman, and that is why this Congress must pass H.R. 200.

Mr. TALCOTT. Mr. Chairman. I regret that I have felt obliged to object to the transfer of time, but when time is so limited that we are permitted only 40 seconds on the amendment, I think it is unfair to all of us when we gang up. The purpose of my objection was to avoid this double unfairness.

Mr. Chairman, I speak in support of the bill. I am surprised that many conservationists have abandoned one of our most important conservation bills simply because it pertains to fish. Fish are underwater and out of sight and out of mind, and this valuable resource does not get much attention. Most of the conservationists would be up in arms today if a Russian oil derrick were put up 12½ miles out to sea. We would have immediate unilateral action then and the conservationists would be applauding the action.

The military has neglected fishing, and they ought not to neglect fishing. People involved in the military ought to be concerned about fishing because it is going to be important for our national defense.

Mr. Chairman, there are dozens of reasons why we should have this bill. I regret we have such limited time.

Mr. STRATTON. Mr. Chairman, last night we stayed here late worrying about another Tonkin Gulf. I say that this bill may turn out to be another Tonkin Gulf resolution. The gentleman from Massachusetts (Mr. Studds) said there was nothing in this bill that would set up a 200-mile territorial limit. But as the gentleman from Florida (Mr. Bennett) very eloquently mentioned a moment ago, we are on the verge of an agreement in the Law of the Sea Conference on part of the problem. But if we come up now with this kind of unilateral action it is very likely that the Law of the Sea Conference will break down, and as a result many countries might then go to a 200-mile limit not just for fishing rights but for territorial rights as well. And that would destroy our national security and our deterrent force.

Mr. PRITCHARD. Mr. Chairman, nothing could be further from the truth that we are on the verge of an agreement on the law of the seas. Anyone who has read this text knows that is just a fallacy.

Mr. Chairman, we should be honest. There are some good arguments to be made on both sides of this issue, but to say we are on the verge of an agreement on the law of the seas is not true, and we should not kid anybody about it.

Mr. FASCELL. Mr. Chairman, I am opposed to this bill.

I agree with the preceding speaker at least to the extent that we ought to talk commonsense. I think if you are going to bluff somebody, which this bill seeks to do, then when your bluff is called, as in poker, the bluffer better have an ace in the hole. This bill offers confrontation as a solution to a very serious problem. There is no ace in the hole.

Another fatal flaw in this bill is that it seeks by unilateral action to resolve an international dispute. That gambit has not worked before and will not work now.

Finally, in mandating bilateral negotiations with severe penalties if refused, this bill trods a well traveled path leading nowhere. No other nation is going to knuckle under.

Mr. CONTE. Mr. Chairman, I rise in support of H.R. 200, which is a bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish, in order to protect the domestic fishing industry and for other purposes.

I was pleased to cosponsor this bill which should prove to be a tremendous help in our efforts to conserve and manage fisheries resources found off the coasts of the United States, and the anadromous fisheries resources of the United States in the high seas. [Secs. 101; 102]

If we are to safeguard the well-being of commercial and recreational fishing off the coast of the United States for American, as well as foreign, commercial and recreational fishing interests, this legislation must be passed. [Sec. 2]

The vast operations of foreign fishing fleets have caused a vast depletion of stocks in our coastal waters and the area within which this bill is designated to reach. Commercial fishing in the high seas and off the coast of the United States has become a veritable field of exploitation of our limited fisheries stocks. [Sec. 2]

The U.S. catch rose only from 4.3 billion tons in 1938 to 4.7 billion tons in 1973, while the estimated catch for foreign nations have more than tripled in the same time period. Another tragic aspect about the

serious depletion of commercial fishing stock is the effect on recreational fishing. All too often dolphins and the beautiful marlin and sailfish are caught within schools of commercial fish and are not returned to the sea. The result has been a severe depletion in the numbers of these beautiful gamefish, who will face extinction without the necessary management and conservation efforts contained in this bill. **[Sec. 2]**

I should now like to review the main argument set out by opponents of this bill. It is their position that unilateral action by the United States—that is passage of this bill—would jeopardize any international agreements which might take place between 148 participating nations at the March 1976, Law of the Sea Conference. I should like to emphasize to my colleagues that this bill is an interim measure and would be superseded by any international agreements in which the United States might participate. **[Sec. 401]** It is clear that it may take several years before a workable international agreement can be ratified by all the 148 member nations.

In the interim period when this bill would apply **[Sec. 401]**, the management and conservation measures provided in this bill would be in effect to insure a continuing supply of commercial and game fish for all nations. **[Sec. 2]** This bill is not designed to prejudice any foreign fishing interests. **[Secs. 2(c)(4); 201]** On the contrary, it is designed to protect the availability of the various species for United States and foreign commercial and recreational fishing for years to come. **[Sec. 2]**

Now I should like to address myself to a problem I alluded to earlier—the severely depleted gamefish stock. **[Sec. 2]** This bill exempts “highly migratory species” **[Secs. 2(b)(2); 103]** from Federal fisheries management authority. This exemption was placed in the bill in defense to the tuna industry. Opponents of this bill should be pleased to note that the foreign tuna fishing fleet would not be subject to any of the management provisions of this bill. **[Secs. 2(b)(2); 103]** Unfortunately, international agreements define “highly migratory species” **[Sec. 3(14)]** as including tuna as well as a wide variety of gamefish such as swordfish, sailfish, sharks, dolphins, white, blue and striped marlin, as well as many other species of gamefish. These gamefish are in danger of virtual extinction in the next decade if we do not take drastic conservation efforts immediated. **[Secs. 2(b)(2); 3(14); 103]**

Just to serve as an example of the serious state the future holds for recreational fishing, let us review some startling statistics affecting the marlin alone. The overall catch rate—fish per 1,000 hooks—for the beautiful white marlin declined from 2.06 in 1956 to .80 in 1970. Also the overall catch rate for the blue marlin fell from 3.81 in 1962 to a serious low of .29 in 1970—a 92-percent drop. Recent statistics show that the decline is ever-increasing. To remedy this situation, I plan to offer an amendment to limit the definition of “highly migratory species” **[Sec. 3(14)]** to the various species of tuna. This would effectively place the many species of endangered gamefish under the auspices of Federal fisheries management protection. **[Secs. 2(b)(2); 3(14); 103]**

It is most important that we realize that conservation and respect for inhabitants of the sea is equally as vital as our efforts on the shore.

[Sec. 2] Prolonging legislation such as this will only result in later more drastic conservation efforts. What assurances do we have that the 148-member nations will reach a viable international agreement to accomplish the ends this bill sets out to—none. Even though passage of this bill might be opposed as an unwise unilateral action—we must recognize that it is only an interim measure to stay in force until the 148-member nations of the Law of the Sea Conference reach an agreement.

Fellow Members, let us not forget our recent and most welcomed visit by Emperor Hirohito and Empress Nagako of Japan. On each step of their journey throughout the United States, the royal couple saw signs pleading for their assistance in saving the whale from virtual extinction.

Fellow Members, Americans across this Nation recognize the need for this legislation, as well as the continuing injury that will result from prolonging its long-awaited passage. **[Sec. 2]**

Thank you, Mr. Chairman.

Mr. STUDDS. Mr. Chairman, let me briefly remind the Members that the little protection we have for our fishermen in our 12-mile zone was achieved through unilateral action 9 years ago by this Congress. Although we were warned of the most dire consequences, there have been none.

Mrs. SULLIVAN. Mr. Chairman, with respect to the 20-minute time limitation that I asked for, I would like to explain that we only had two very minor amendments to consider and I felt there was no need to provide an inordinate amount of time to discuss two minor amendments. That is why I asked for only 20 minutes.

The CHAIRMAN. If there are no more amendments to title I, the Clerk will report title II.

The Chair will remind the Members that until title II has been read in full no amendments are in order.

The Clerk read as follows:

TITLE II.—INTERNATIONAL FISHERIES AGREEMENTS

SEC. 201 **[Sec. 201]** FISHING BY FOREIGN VESSELS IN THE FISHERIES ZONE AND SEAWARD OF THE ZONE FOR MANAGED ANADROMOUS SPECIES

(a) **PERMITS. REQUIRED OF FOREIGN VESSELS. [Sec. 204(a)]**—No fishing vessel, except a vessel documented under the laws of the United States or registered under the laws of any State, shall engage in fishing within the fishery zone, or fishing seaward of the fishery zone for any anadromous species with respect to which a fishery management plan implemented pursuant to title III of this Act applies, unless such vessel has on board a valid permit issued by the Secretary pursuant to this section.

(b) **APPLICATION FOR PERMITS. [Sec. 204(b)]**—Any foreign nation seeking a permit referred to in subsection (a) on behalf of one or more vessels registered under its flag may file an application therefor with the Secretary of State. Any application shall—

(1) state the name and official number of each fishing vessel for which a permit is sought;

(2) set forth the tonnage, capacity, speed, processing equipment, gear, and such other characteristics of each vessel as the Secretary may require;

(3) specify the species of fish for which the vessel or vessels will fish;

(4) specify the amount of fish or tonnage of catch contemplated;

(5) specify the ocean area in which, and the season or period during which, such fishing will be conducted; and

(6) set forth such other pertinent information as the Secretary may require.

(c) **TRANSMISSION OF APPLICATION FOR ACTION.** [Sec. 204(b) (4)]—Upon receipt of any application referred to in subsection (b), the Secretary of State shall—

(1) promptly transmit such application, together with his comments and recommendations thereon, to the Secretary, and

(2) transmit a copy of the application to the Secretary of the department in which the Coast Guard is operating.

(d) **TENTATIVE APPROVAL OF APPLICATION AND PREPARATION OF STATEMENT OF CONDITIONS.** [Secs. 204(b) (6) ; 204(b) (7)]—Upon receipt of any application, and after consultation with the Secretary of the department in which the Coast Guard is operating with respect to enforcement and after taking into consideration the views and recommendations of the Secretary of State and the appropriate regional marine fisheries council, the Secretary, if he determines that the fishing activity proposed in the application is consistent with the policy and purposes of this Act and with the national fisheries management standards set forth in section 302(c), and after taking into account any traditional or historical patterns of fishing by the applicant nation for the species of fish covered in the application, shall tentatively approve the application (subject to the provisions of subsection (e) and shall tentatively approve the application (subject to the provisions of subsection (e) and shall prepare a statement of the conditions and restrictions which will apply to the fishing in which the foreign vessels propose to engage and to which the foreign country must agree before any permit may be issued under this section. Any statement of conditions and restrictions shall include—

(1) any adjustment deemed necessary by the Secretary in the number of fishing vessels for which permits may be issued ;

(2) if the vessels will engage in fishing for a species for which a fishery management plan has been implemented pursuant to title III of this Act (hereinafter referred to in this section as a "managed species") all requirements imposed by such plan ;

(3) if the vessels will engage in fishing for other than a managed species, such conditions and restrictions with respect to tonnage, season, catch, gear requirements, and statistical reporting as the Secretary deems appropriate for the species concerned ;

(4) enforcement conditions, including but not limited to—

(A) procedures which will apply with respect to the boarding and inspection of vessels, including the requirement that the permit issued to any vessel pursuant to this section must be prominently displayed in the wheelhouse of the vessel and must be promptly surrendered to any officer authorized to enforce the provisions of this Act at the time of his boarding,

(B) requirements for on-board observers and reimbursement to the United States for costs of such observers, and

(C) prepayment of any license fees which may be levied in the case of managed species ;

(5) in any case in which subsection (e) applies, a further condition that any other condition and restriction imposed pursuant to this subsection shall be provisionally applicable until such time as the fishery management plan is implemented and may be unilaterally amended by the Secretary after such implementation in such manner as may be necessary to conform them to the plan requirements ; and

(6) any other conditions and restrictions which the Secretary deems necessary or appropriate.

(e) **SPECIAL CONSIDERATIONS IN CASE OF APPLICATION TO FISH FOR SPECIES FOR WHICH FISHERY MANAGEMENT PLAN IS BEING DEVELOPED.** [Sec. 201(a) ; 204(b) (7)]—The Secretary may tentatively approve an application for fishing by foreign vessels for a species with respect to which a fishery management plan is being developed by a regional marine fisheries council or by the Secretary under title III of this Act only if the Secretary determines that the species is not depleted.

(f) **CONGRESSIONAL ACTION ON APPLICATION.** [Sec. 203]—Any application tentatively approved by the Secretary, together with the statement of conditions and restrictions prepared by the Secretary pursuant to subsection (d)—

(1) shall be deemed, for the purposes of section 206, to be an international fisheries agreement ; and

(2) shall be transmitted by the Secretary to the President for delivery to Congress pursuant to section 206(a) (1).

(g) **ISSUANCE OF PERMITS.**—If neither the House of Representatives nor the Senate disapproves an application pursuant to section 206, the Secretary of State shall transmit to the foreign nation concerned a statement of conditions and restrictions prepared by the Secretary with respect to the application. Upon acceptance of the conditions and restrictions by the foreign nation, the Secretary shall issue to the Secretary of State a permit for each fishing vessel entitled thereto. The Secretary of State shall promptly transmit the permits to the foreign nation for distribution to the operators of such vessels.

(h) **SUSPENSION OF REVOCATION OF PERMITS.** [Sec. 204(b) (12)]—

(1) **REPEATED VIOLATIONS.**—If the Secretary finds that any fishing vessel to which a permit is issued pursuant to this section has been repeatedly used in the commission of acts prohibited by section 310(2) for which civil penalties are assessed pursuant to section 311, the Secretary may suspend the permit for such period of time as he deems appropriate, or may revoke the permit.

(2) **FAILURE TO PAY ASSESSMENT.**—In any case in which any fishing vessel to which a permit is issued pursuant to this section—

(A) is used in the commission of any act prohibited by section 310(2) and is not seized pursuant thereto; and

(B) a civil penalty is assessed pursuant to section 311 for such act, the Secretary shall, if such assessment is not paid within a reasonable time after the date of the assessment, suspend the permit until such time as the assessment is paid.

(3) **PENALTY FOR FISHING DURING PERIOD OF PERMIT REVOCATION OR SUSPENSION.**—Any fishing by a foreign vessel in the fishery zone, or seaward of the fishery zone for any anadromous species with respect to which a fishery management plan is implemented pursuant to title III of this Act, during the period in which any permit issued pursuant to this section to such vessel is suspended or revoked pursuant to this subsection, shall be deemed to be a violation of the Act of May 20, 1964 (as amended by section 402 of this Act).

(i) **ISSUANCE OF WARNING** [Sec. 204(b) (12)]—In any case in which any officer authorized to enforce the provisions of this Act finds that a fishing vessel to which a permit has been issued under subsection (g) has been operated in such a manner as to constitute a violation of a condition or restriction accepted by the foreign nation concerned but that such violation is, in his judgment, a minor infraction, the officer may, in lieu of citing the master of such vessel for violation of section 310(2), issue the master of the vessel a warning. Any warning issued pursuant to this subsection shall be noted in writing on the permit.

(j) **APPLICATION AND PERMIT FORMS.** [Sec. 204(b) (2)] The Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form for applications submitted pursuant to subsection (b) and for permits issued pursuant to subsection (g). The form prescribed for permits shall provide for the inclusion of such information as may be necessary to inform officers authorized to enforce the provisions of this Act of those conditions and restrictions accepted pursuant to subsection (g) which apply to the vessel.

(k) **SPECIAL TREATMENT FOR FISHERY MANAGEMENT PLANS WHICH APPLY SEAWARD OF THE FISHERIES ZONE TO ANADROMOUS SPECIES.** [Secs. 102(2); 201(a); 202(a) (4) (B); 204(a)]

(1) **PLANS DEEMED UNILATERAL CONSERVATION MEASURES.**—Any fishery management plan prepared pursuant to section 304 or 305(d) which in whole or part applies with respect to any anadromous species in any area of the high seas seaward of the fisheries zone shall be deemed to be a unilateral measure of conservation of the United States within the meaning of article 7 of the Convention on Fishing and Conservation of the Living Resources of the High Seas.

(2) **SUSPENSION OF TAKING EFFECT OF PLAN.**—Notwithstanding any other provision of this Act, no fishery management plan referred to in paragraph (1), to the extent that it applies seaward of the fisheries zone, shall enter into force and effect until the close of the 6-month period immediately following the date of the promulgation of the regulations necessary to implement the plan. During such 6-month period, the Secretary of State shall—

(A) enter into negotiations pursuant to such article 7 with the other contracting parties to such Convention for the purpose of securing the consent of the contracting parties to such plan and the regulations implementing such plan; and

(B) enter into such other bilateral or multilateral negotiations as may be appropriate in order to obtain the consent of any foreign nation to such plan and the regulations implementing such plan.

(3) **ENTERING INTO FORCE AND EFFECT OF PLAN.**—After the close of the 6-month period referred to in paragraph (2), the fishery management plan concerned, to the extent that it applies seaward of the fisheries zone, and the regulations implementing such plan shall have force and effect within the area seaward of the fisheries zone to which it applies.

(4) **SUSPENSION OF ENFORCEMENT BY THE UNITED STATES OF PLAN SEAWARD OF THE FISHERIES ZONE.**—If permits are issued pursuant to subsection (g) to fishing vessels of any foreign nation which authorizes them to engage in fishing for any anadromous species to which a management plan referred to in paragraph (1) of this subsection applies, the United States shall not enforce the conditions and restrictions imposed with respect to such permits if the foreign nation gives written assurance to the Secretary of State that it will regulate such vessels in accordance with such conditions and restrictions. This paragraph shall only apply if, and during such time as, the Secretary, after consulting with the Secretary of State, finds that—

(A) the penalties imposed by the foreign nation on its vessels are equivalent to the penalties imposed pursuant to section 311 for violation of any such condition or restriction; and

(B) such foreign nation stringently assesses such penalties against its vessels or nationals which violate such conditions and restrictions.

(1) **CONTINENTAL SHELF SPECIES.** [Sec. 307 (2) (B)]—Nothing in titles I, II, or III of this Act shall be construed to extend to any vessel not documented under the laws of the United States, or not registered under the laws of any State, the right or privilege to engage in fishing for any Continental Shelf species.

SEC. 202. TREATMENT OF CERTAIN EXISTING INTERNATIONAL FISHERIES AGREEMENTS.

(a) **APPLICATION OF ACT TO EXISTING AGREEMENTS.** [Sec. 201 (b)]—No international fisheries agreement (other than an agreement which is a treaty within the meaning of section 2 of article II of the Constitution) which is in effect on July 1, 1976, and which pertains to fishing in the waters described in title I of this Act or which pertains to species or stocks of fish, or fisheries, with respect to which the United States may exercise management and conservation authority pursuant to this Act, shall be extended or renewed except pursuant to this Act.

(b) **RENEGOTIATION OF TREATIES.** [Sec. 202 (b)]—The Secretary of State, in consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, shall initiate promptly after the date of the enactment of this Act, the renegotiation of all treaties within the meaning of section 2 of article II of the Constitution which pertain to fishing in the waters described in title I of this Act or which pertain to species, or stocks of fish, or fisheries, with respect to which the United States may exercise management and conservation authority pursuant to this Act, in order to conform such treaties to the provisions and requirements of this Act.

(c) **REPORTS TO CONGRESS.** [Sec. 203]—The Secretary of State shall submit to the Congress a written report on or before May 15, 1976, and annually thereafter, on the results of the negotiations which he is required to initiate under subsection (b).

SEC. 203. NEGOTIATIONS TO PRESERVE CERTAIN UNITED STATES FOREIGN FISHING RIGHTS.

(a) **COMMENCEMENT OF NEGOTIATIONS.** [Sec. 202 (a)]—Within 90 days after the date of enactment of this Act, the Secretary of State shall commence negotiations with each foreign nation, off of whose coast United States vessels are engaged in fishing for specific stocks of fish, for the purpose of entering into an international fishery agreement under which such foreign nation will grant to United States vessels equitable access, consistent with reasonable management and conservation practices, to such fish stocks within 200 nautical miles off the coast of such nation.

(b) **ACTION IF FOREIGN NATION REFUSES TO NEGOTIATE OR VIOLATES TREATY.**—(1) If the Secretary of State determines that—

(A) any foreign nation is refusing to commence negotiations, or fails to negotiate in good faith, with the United States in order to achieve the purpose of subsection (a); or

(B) although an international fishery agreement which achieves the purpose of subsection (a) is in force and effect, the foreign nation is not complying with its obligations under the agreement.

he shall certify that determination to the Secretary of the Treasury. Upon receipt of any such certification, the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the customs territory of the United States of any seafood product of that foreign nation.

(2) **[Sec. 205]** For purposes of this subsection, any seizure of a United States vessel which is reimbursable under section 3 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1972) that is made by any foreign nation off whose coast United States vessels are engaged in fishing for specific stocks of fish shall—

(A) if no international fisheries agreement achieving the purpose of subsection (a) is in force and effect, be deemed to be a refusal by that nation to commence negotiations, or failure by that nation to negotiate in good faith, within the meaning of paragraph (1) (A) of this subsection, or

(B) if such an agreement is in force and effect, be deemed to be noncompliance by that nation with its obligations under that agreement within the meaning of paragraph (1) (B) of this subsection,

and the Secretary of State shall immediately make the appropriate certification to the Secretary of the Treasury required by paragraph (1) of this subsection.

(c) **DURATION OF IMPORT PROHIBITION.** **[Sec. 205(c)]**—Any import prohibition which is imposed pursuant to subsection (b) shall remain in effect—

(1) if the prohibition was imposed by reason of subsection (b) (1), until such time as the Secretary of State certifies to the Secretary of the Treasury that an international fisheries agreement which achieves the purposes of subsection (a) has entered into force and effect between the United States and that foreign nation; or

(2) if the prohibition was imposed by reason of subsection (b) (2), until such time as the Secretary of State certifies to the Secretary of the Treasury that the foreign nation is complying with its obligations under the international fishery agreement.

(d) **DEFINITION.** **[Sec. 205(d)]**—For purposes of this section, the term "seafood product" means any fish which is the product of a foreign nation, and any article which is the product of such nation and which is composed in whole or part of any fish which is the product of such nation; but excludes during the period of any import prohibition imposed pursuant to subsection (b) any such fish or article if the fish or fish constituting the article are harvested by United States vessels, irrespective of point of harvesting or offloading.

SEC. 204. [Sec. 202(a) (4) (B)]—NEGOTIATIONS REGARDING HIGHLY MIGRATORY SPECIES.

The Secretary of State, upon the request of, and in cooperation with, the Secretary, shall initiate and conduct negotiations with any foreign nation participating in a fishery for any highly migratory species for the purpose of entering into international fisheries agreements that would establish an appropriate international fisheries organization having authority to manage and conserve such highly migratory species.

SEC. 205. [Sec. 401] MULTILATERAL CONVENTION

If the United States ratifies a multilateral convention resulting from any United Nations Conference on the Law of the Sea which contains provisions with respect to the breadth of the territorial sea and the fisheries or economic zone, the Secretary, in consultation with the Secretary of State, may promulgate pursuant to section 307 such changes, if any, in the regulations issued pursuant to this Act as may be necessary or desirable to conform such regulations with the provisions of such convention in anticipation of the date when such convention shall come into force and effect or otherwise be applicable to the United States.

SEC. 206. [Sec. 203] CONGRESSIONAL DISAPPROVAL OF CERTAIN FISHERIES AGREEMENTS.

(a) **TAKING EFFECT OF INTERNATIONAL FISHERIES AGREEMENTS.**—Any International fishery agreement (other than an agreement which is a treaty within the meaning of section 2 of article II of the Constitution) entered into after the date of the enactment of this Act, and any amendment entered into after such date to any international fishery agreement entered into before such date, shall enter into force and effect with respect to the United States if (and only if)—

(1) the President delivers a copy of the agreement to the House of Representatives and a copy to the Senate; and

(2) before the close of the 60-day period which begins on the day on which copies of such agreement are delivered to the House of Representatives and to the Senate, neither the House of Representatives nor the Senate adopts, by an affirmative vote of the majority of those present and voting in that House, a resolution of disapproval.

(b) **RESOLUTION OF DISAPPROVAL.**—For purposes of this section, the term "resolution of disapproval" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the does not favor the taking effect of the international fishery agreement transmitted to the Congress by the President on _____", the first blank space therein being filled with the name of the resolving House and the second blank space therein being filled with the day and year.

(c) **PROCEDURE IN EACH HOUSE.**—

(1) A resolution of disapproval in the House of Representatives shall be referred to the Committee on Merchant Marine and Fisheries. A resolution of disapproval in the Senate shall be referred to the Committee on Commerce.

(2) (A) If the committee to which a resolution of disapproval has been referred has not reported it at the end of 7 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution of disapproval of the same international fishery agreement which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution is highly privileged (except that it may not be made after the committee has reported a resolution of disapproval), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution of disapproval of the same international fishery agreement.

(3) (A) When the committee has reported, or has been discharged from further consideration of, a resolution of disapproval, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate on the resolution of disapproval shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate, is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(4) (A) Motions to postpone, made with respect to the discharge from committee or the consideration of a resolution of disapproval, and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives or the Senate, as the case may be, to the procedure relating to any resolution of disapproval shall be decided without debate.

(5) Whenever the President transmits copies of any international fisheries agreement to the Congress, a copy of such agreement shall be delivered to each House of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

(6) This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions of disapproval described in subsection (b); and they supersede other rules only to the extent that they are inconsistent therewith, and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

Mrs. SULLIVAN. Mr. Chairman, I ask unanimous consent that title II be considered as read and open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

Mr. FRASER. Mr. Chairman, reserving the right to object, will the gentlewoman from Missouri (Mrs. Sullivan) tell us, before I withdraw my reservation of objection, what form of motion she intends to offer in the way of limiting debate?

Mrs. SULLIVAN. Yes, Mr. Chairman, if the gentleman will yield, we intend to complete this bill tonight. The Members of the House and the Committee were promised last night that we would stay here until we complete the bill, and I think it would be difficult to get a quorum unless we get this bill completed soon. On this next title we have 3 amendments pending, and I think there are only 2 amendments on the other; one, we know, will be accepted, but on the other there may be a debate.

Mr. FRASER. Mr. Chairman, my question is this: What kind of a time limitation will the gentlewoman ask for?

Mrs. SULLIVAN. Mr. Chairman, if the gentleman will yield further, I was going to ask for 30 minutes. I would like to cut it down to 20 minutes if I could.

Mr. FRASER. Mr. Chairman, I wonder if the gentlewoman would be agreeable to holding off the offering of her motion, to limit debate until the 2 amendments are offered, so that we do not have 30 Members standing up and asking to be recognized, which would divide the time into such small segments that it would be meaningless?

Mrs. SULLIVAN. Mr. Chairman, I am sure the gentleman understands the situation we are in.

Mr. FRASER. I understand, but still all of us have a very deep interest in this bill.

Mrs. SULLIVAN. Mr. Chairman, I will withhold the offering of my motion at this time.

Mr. FRASER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

AMENDMENT OFFERED BY MR. WAGGONNER

Mr. WAGGONNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Waggonner: Page 29, strike out line 5 and all that follows thereafter down through line 2 on page 32, and insert the following [Sec. 202]:

SEC. 203. NEGOTIATIONS TO SECURE CERTAIN UNITED STATES FOREIGN FISHING RIGHTS

(a) COMMENCEMENT OF NEGOTIATIONS [Sec. 202(a)].—The Secretary of State, upon the request of and in cooperation with the Secretary, shall initiate and conduct negotiations with any foreign nation in whose fishery conservation zones, or its equivalent, vessels of the United States are engaged, or wish to be engaged,

in fishing, or with respect to anadromous species or Continental Shelf fishery resources as to which such nation asserts management authority and for which vessels of the United States fish, or wish to fish. The purpose of such negotiations shall be to conclude international fishery agreements which shall permit United States vessels equitable access to such fish, consistent with reasonable management and conservation practices, within such nation's fishery conservation zone or its equivalent.

(b) ACTION IF FOREIGN NATION REFUSES TO NEGOTIATE OR VIOLATES TREATY [Sec. 205].—If the Secretary of State determines that—

(A) any foreign nation is refusing to commence negotiations with the United States in order to achieve the purpose of subsection (a) ; or

(B) although an international fishery agreement which achieves the purpose of subsection (a) is in force and effect, the foreign nation is not complying with its obligations under the agreement, he may certify that determination to the Secretary of the Treasury. Upon receipt of any such certification, the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the customs territory of the United States of any seafood product of that foreign nation.

(c) DURATION OF IMPORT PROHIBITION. [Sec. 205(c)]—Any import prohibition which is imposed pursuant to subsection (b) shall remain in effect—

(1) if the prohibition was imposed by reason of subsection (a) (A), until such time as the Secretary of State certifies to the Secretary of the Treasury that such foreign nation has commenced negotiations in order to achieve the purpose of subsection (a) ; or

(2) if the prohibition was imposed by reason of subsection (b) (B), until such time as the Secretary of State certifies to the Secretary of the Treasury that the foreign nation is complying with its obligations under the international fishery agreement.

(d) DEFINITION.—For purposes of this section, the term "seafood product" means any fish which is the product of a foreign nation, and any article which is the product of such nation and which is composed in whole or part of any fish which is the product of such nation.

Mr. WAGGONER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. WAGGONER. Mr. Chairman, the unilateral declaration of a 200-mile fisheries zone by the United States is a tremendously important and necessary action.

For too many years we have seen the buildup of foreign fleets in our coastal waters. We have seen the ravaging effects of these foreign fleets, as one fishery resource after another has been overfished. Last year, we saw how foreign fleets took 7-billion pounds of fish from waters near our shores. The U.S. fleet was able to harvest only 5-billion pounds.

Declaring a 200-mile limit will enable us to manage these valuable resources, setting such quotas as are necessary to allow the declining stocks to rebuild. [Secs. 2; 101]

The proposed legislation will enable us to allocate to foreign fleets only that portion of the allowable catch that our own fishermen cannot or will not harvest themselves. [Sec. 201(d)]

There is concern over the unilateral aspects of this legislation. Ideally, control over coastal resources would have been agreed upon formally in an international forum. We have seen the futility of the Law of the Sea Conference to come to this agreement despite their 5 year effort.

We can no longer wait for the Law of the Sea to act if we are to preserve the remaining resources. [Sec. 2]

However, as we take this unilateral move, we must be consistent. We cannot declare that we have the right to set up a 200-mile fishery zone [Sec. 101], and determine whether foreign fleets will be allowed any portion of the resource [Sec. 201(d)], and also deny similar action to other nations. The proposed bill is guilty of such inconsistency in section 203. [Sec. 205] This section threatens a mandatory trade reprisal in the form of a ban on seafood imports against those nations who may be exercising the same control over their resources as we plan to do in our extended jurisdiction.

This is not right. And, for this reason, I introduce an amendment which provides a substitute section 203. [Sec. 205]

The purpose of section 203 [Secs. 202(a)(4); 205] is to assist our distant water shrimp and tuna fishing fleets that fish off the shores of other nations. Many of these nations have already declared 200-mile fishery jurisdiction, and others are expected to do so in the near future.

Presently, section 203 [Sec. 202(a)(4)] directs the Secretary of State to negotiate with those nations to seek equitable access by U.S. boats to fish stocks within 200 miles of their shores. The present section further calls for a mandatory embargo on seafood products from such nations if they refuse to negotiate or negotiate in good faith. [Sec. 205] The section continues to provide that an arrest of a U.S. fishing boat automatically triggers the trade reprisal. [Sec. 205]

This provision, in effect, says that the United States has the right to control its fishery resources [Sec. 301(d)], but that other nations cannot have that same right. [Secs. 202(a)(4); 205] To be sure, it is our intention to allow other nations to continue to fish in our 200-mile zone [Secs. 2(c)(4); 201; 204; 302(h)(5); 303(a)(4)(B)] provided there is surplus stocks available. [Sec. 201(d)] We want other nations to continue to allow our distant water fleets to operate, and we want to encourage negotiations for this purpose. [Sec. 202(a)(4)] This encouragement should not be as heavyhanded as it appears in the present draft. [Secs. 202(a)(4); 205]

As it is now proposed, the section removes all flexibility on the part of the executive. [Secs. 202(a)(4); 205] International confrontations and executive decisions are at the mercy of a shrimp or tuna boat captain. Suppose a vessel is arrested by a South American nation from whom we wish to purchase oil. Automatically, the executive must ban seafood products from that country. [Sec. 205] One can only surmise that a counter move by the nation would be forthcoming. Trade wars help neither nation.

On the other hand, if the enforcement of our 200-mile zone [Sec. 311] requires our Coast Guard to arrest a foreign vessel, do we want to be giving that nation a signal that trade reprisals are fair play in such situations? [Sec. 205]

The provision has other negative implications. [Sec. 205] Cutting off certain seafood products, especially those not found near our shores, would adversely affect consumer prices. [Sec. 205]

My amendment merely removes the mandatory nature of the reprisal from section 203. [Sec. 205] The Secretary of State is still directed to negotiate, to allow U.S. distant water fleets to continue to fish off other nations' shores. [Sec. 202(a)(4)] If these nations refuse to nego-

tiate [Sec. 202(a)(4)], the Secretary has discretionary authority to ban seafood imports from that nation. [Sec. 205] The Secretary has the right to avoid such a drastic step if total national interest is served by avoiding the confrontation. [Sec. 205]

This amendment provides help for our distant water fisheries, but does not jeopardize relationships with other nations by imposing on the executive mandatory action we may not wish in a given situation. [Sec. 202(a)(4)]

Mr. LEGGETT. Mr. Chairman, I think the intent of the gentleman's amendment is apparent. The gentleman is softening the boycott provisions. [Sec. 205]

We had thought that the committee would make it mandatory since the executive has not exercised its discretion in the past under the Tuna Fisherman's Protection Act or under the Pelly Act. Undoubtedly the diplomatic thing to do is to make it discretionary. [Sec. 205]

Mr. Chairman, the Committee on this side is prepared to accept the gentleman's amendment. [Sec. 205]

Mr. WAGGONER. Mr. Chairman, I thank the gentleman very much.

Does the minority have the same viewpoint with regard to acceptance of the amendment?

Mr. RUPPE. Mr. Chairman, this side is agreeable to accepting the amendment. [Sec. 205]

Mr. PEPPER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, and members of the committee, I want to rise in opposition to this bill. I have a letter here from the executive director of the Southeastern Fisheries Association.

He says:

You may multiply 20 times the impact of the recent Bahamian government controversy over the spiny lobsters if this legislation is passed. Florida has 1500 shrimp boats which rely on the Caribbean and South American waters—they will be forced back into the U.S.—this will be a waste of 10 million pounds of crawfish because the Caribbean and South American countries do not have the fishing capability.

Recently—I believe it was in 1974—the Congress identified the lobster as being indigenous to the coastal shelf of the United States. We were protecting what we thought legitimately to be our own industry, but the impact of that perhaps was unexpected to those who advocated that lobster legislation.

Immediately after we adopted that legislation, the Bahamian Government, only changing, as it were, the names and the dates, adopted a resolution declaring that the spiny lobster is indigenous to their continental shelf and put a 200-mile limit upon access to the waters of the Bahamas.

Let me tell the Members what the effect of that was upon our fishing industry in Florida, and I am reading here from the Southeastern Fisheries Association communication to the gentlewoman from Missouri (Mrs. SULLIVAN).

The letter says:

According to figures obtained from NMFS, Florida fishermen in 1974 landed over 4 million pounds of spiny lobsters taken in international waters but on the Bahamian continental shelf. This was accomplished by about 260 boats and 800 fishermen and had a dockside value of over 6 million dollars. As a comparison,

according to "Fisheries of the United States, 1974" (page 19), this 6 million dollar fishery that has just been lost to us is more valuable than any one of the following: Cape Charles, Va., Point Judith, R.I., Newport, R.I., Boston, Mass., Cape May, N.J., and Beaufort-Morehead City, N.C.

Mr. Chairman, I know those who advocate this bill mean well, but it is going to hurt very seriously the shrimp fishing industry which is centered largely in the southeast from the waters of Mexico and South America, particularly off the coast of Brazil.

Brazil and several other Latin American countries have had a 200-mile limit. We have been quarreling with them about it, claiming it was not legal. We have had difficult negotiations with them in trying to get some rights. Now we have to pay the patrol boats of Brazil for our shrimp fishermen going into their 200-mile limit to catch some shrimp.

Therefore, Mr. Chairman, this is going to hurt the fishing industry of the United States.

Second, it is contrary to the fixed policy of this country that any nation unilaterally should extend its authority many miles beyond the accepted 3- or 12-mile limit. If we can extend our authority 200 miles [Sec. 101], why not 1,000 miles?

Only 11 countries, most of them Latin American countries, have adopted a 200-mile limit.

We just had a Law of the Sea Conference in Caracas a little bit ago. We are going to have another one in March in New York City.

The United States, we often say, is the greatest power in the world. For us, in between those two conferences, to come out with a unilateral declaration of a 200-mile limit [Sec. 101] just does not seem to me to be consistent with the declared policy and the best interests of the United States.

Mr. HUGHES. Mr. Chairman, I sympathize with my colleague, the gentleman from Florida. The gentleman has mentioned Cape May. That happens to be in my district. I am happy that the gentleman's shrimp industry is still alive but my fishing industry in Cape May is not alive.

I would ask the gentleman from Florida does the gentleman find anything equitable in the fact that we are subsidizing the South American countries to protect their 200-mile limit and yet we are not protecting the fishing industry on the Atlantic and Pacific coasts?

Mr. PEPPER. I cannot altogether agree with the gentleman from New Jersey.

Mr. HUGHES. But, I repeat, Mr. Chairman, does the gentleman from Florida find any equity in that situation?

Again I say that I have a dying fishing industry in my district.

Mr. PEPPER. Mr. Chairman, I think that the better course of action for this country to take is to go on as we are going, try to persuade the other nations of the world to agree upon an acceptable solution of this problem for these purposes and then we will have something that the world can live with and we will not be risking a confrontation with other nations of the world. Thereby we would be adopting the best course I believe for the fishing interests of the United States as well.

Mr. HUGHES. If the gentleman will yield further, let me say that we cannot wait for that, we will not have anything left by the time

the Conference of the Sea is over. [Sec. 2] I might add that right now they pretty well have everything that they wish so why would they want to sit down and negotiate when they have everything they need.

Mr. PEPPER. I realize that off the New England coast they have a problem, but the gentleman must consider that we have a long coast on the Atlantic Ocean and on the Pacific Ocean and the Gulf of Mexico.

Mr. VAN DEERLING. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. Waggoner).

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. Fenwick:

Page 22, line 18, after the word "deemed" strike ", for the purposes of section 206," [Sec. 203].

Line 21, strike out "pursuant" and all that follows thereafter up to and including line 22 [Sec. 203].

Line 23, strike out "if" and all that follows up to and including the numerals "206" on line 25 [Sec. 203];

Page 30, line 6, strike out "the" and all that follows thereafter up to and including line 8, and substitute in lieu thereof the following: "any such ships of those countries deemed to be in noncompliance within the meaning of paragraphs (1) (A) and (1) (B) of this subsection from continuing their fishing activities" [Sec. 205];

Page 31, line 4, strike subsection (c) [Sec. 205];

Page 31, line 18, strike subsection (d) [Sec. 205];

Page 33, line 1, strike Sec. 206. [Sec. 205]

POINT OF ORDER

Mr. LEGGETT. Mr. Chairman, I have a point of order. We have already amended page 30, and this amendment would purport to amend page 30. [Sec. 205]

Mrs. FENWICK. I was trying to do that, and I did not know how to intervene in time. I do not know the parliamentary procedure. I apologize.

Mr. LEGGETT. It comes too late.

Mrs. FENWICK. No, no; it is still germane—the part that starts on page 31 striking subsection (c); page 31, line 18, striking subsection (d); and page 33, line 1, striking section 206. [Sec. 205]

The CHAIRMAN. The Chair would advise the gentlewoman from New Jersey that the part of the amendment that appears on page 30 would not be in order at this time. The balance of the amendment would be in order. Without objection, the amendment is modified to delete reference to that portion of title II already amended. [Sec. 205]

There was no objection.

Mrs. FENWICK. Mr. Chairman, the purpose of this amendment—and I will be brief because I know the Members wish to leave—is to strike this embargo, this mandatory requirement that we embargo the fish

products of any nation found to be in violation [Sec. 205] of this, which is supposed to be and was introduced originally as an interim measure. [Sec. 401] Although all efforts to bring the interim feeling into the bill [Sec. 401] have been rejected, although all efforts to say that we do submit ourselves to international law and treaty have been rejected, surely we cannot enter into an embargo of fish products of nations that we find in violation [Sec. 205] of a unilateral decision that we take without regard to our international obligations. I would urge that this whole section, starting on page 31, going right through to page 32, lines 1 and 2, starting on page 31, line 18, striking all subsection (d), and page 33, line 1, right through page 37, line 9 [Sec. 205], be stricken and that this unilateral and harsh action against other nations not be taken this way on the floor of this House.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. Fenwick).

The amendment was rejected.

Mr. FRASER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in part to ask the authors of the bill some questions about the intentions of Titles I and II. The bill purports to establish a 200-mile economic zone [Sec. 101] effective July 1, 1970. [Sec. 104] My question is, is it intended that that be effective immediately. [Sec. 104], notwithstanding the existence of a number of bilateral fishing agreements?

Mr. LEGGETT. If the gentleman will yield, if I could respond to that, the answer would be no, not until July 1, 1976. [Sec. 104]

Mr. FRASER. Not until when?

Mr. LEGGETT. July 1, 1976. [Sec. 104]

Mr. FRASER. No; I prefaced my question by making the point that it does not become effective until July 1, 1976 [Sec. 104]; but on that date does the 200-mile regime [Sec. 101] become effective [Sec. 104], notwithstanding the fact that there may be outstanding some bilateral fishing agreements?

Mr. LEGGETT. If the gentleman will yield, it becomes effective [Sec. 104] and, of course, pursuant to the terms of the bill, we instruct the Secretary of State to renegotiate all bilaterals to come into compliance with the bill. [Sec. 202(a)] Assuming we cannot renegotiate a bilateral, then we might be at a partial impasse; but fortunately we are in the situation where practically all of our bilateral fishing agreements that are subject to our committee's jurisdiction expire within 1 year.

Mr. FRASER. But if no new agreement is reached [Sec. 202], then is that 200-mile regime effective? [Sec. 101]

Mr. LEGGETT. The 200-mile regime [Sec. 101] is effective [Sec. 104], and then if there are no bilaterals, as each country representing the 1,000 ships that are currently fishing in our waters apply for a permit to fish within the areas [Sec. 204], that would be termed a bilateral type of agreement. [Sec. 202]

Mr. FRASER. If there were a bilateral which did not terminate prior to July 1, 1976? Would it remain in force for the remainder of its life? [Secs. 201(b); 202(a)]

Mr. LEGGETT. It would remain in force for its life, until renegotiated. [Secs. 201(b); 202(a)]

Mr. FRASER. In other words, the gentleman does not intend to override the bilaterals? [Secs. 201(b); 202(a)]

Mr. LEGGETT. No, we do not.

Mr. FRASER. The second question is does the gentleman regard the 200-mile zone [Sec. 101] as an exercise under article VII of the 1958 Fisheries Convention?

Mr. LEGGETT. The simple answer to that is no. [Sec. 101] We are taking this action just as a similar country would take action all over the world, and also exactly on the same basis that we extended our jurisdiction in 1966 with the 12-mile legislation. [Sec. 101]

We are merely extending the 9-mile jurisdiction added onto the 3-mile territorial sea to a total of 200 miles. [Sec. 101]

Mr. FRASER. In other words, the gentleman does not purport to be acting within the provisions of the 1958 Convention? [Sec. 101]

Mr. LEGGETT. Not with respect to this. [Sec. 101]

Mr. FRASER. With respect to the seaward extension from the 200-mile limit for anadromous species [Secs. 101; 102(2)], the gentleman agrees that the bill purports to make that an article 7 proceeding under the 1958 Convention. Is that right?

Mr. LEGGETT. That is true. [Secs. 101; 102(2)]

Mr. FRASER. Is it not the case that in the 1958 Convention two requirements must be met. One is, it must be nondiscriminatory with respect to both domestic and foreign fishermen? [Sec. 201]

Mr. LEGGETT. That is true.

Mr. FRASER. The second is, does the zone that is involved not have to be contiguous to the territorial sea? [Sec. 101]

Mr. LEGGETT. It would be contiguous to the fishing zone. [Sec. 101]

Mr. FRASER. No. I will ask the gentleman to reconsider. The 1958 Convention refers to the territorial sea.

Mr. LEGGETT. Let me answer this. We do envision under the 1958 Convention that there would be certain controls beyond the territorial limit and of course in that bill that are just concerned with the territorial limit. [Sec. 101] They did not envision a territorial limit and beyond that a fishing limit, et cetera, but that they would envision an extensive control by a littoral state. [Sec. 101] But they do envision there will not be discrimination. [Sec. 201] In that respect I might say to the gentleman that we do envision in this bill that there could be discrimination, so in that respect we are at odds with the 1958 Convention.

Mr. FRASER. So with regard to the seaward extension for anadromous species the gentleman does not purport to come within the Convention even though the bill makes that claim? [Sec. 102(2)]

Mr. LEGGETT. That is right. What we do come within is the lipservice to the single text on the Law of the Sea where they do purport to give lipservice to the 200 miles [Sec. 101] and then, No. 2, give lipservice to the seaward extension with respect to the anadromous fish. [Sec. 102(2)]

Mr. FRASER. I understand the effect of the bill. Let me pursue this further. Does the gentleman agree we are not operating within the 1958 Convention?

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

(On request of Mr. Studds, and by unanimous consent, Mr. Fraser was allowed to proceed for 2 additional minutes.)

Mr. STUDDS. I want to correct the RECORD in one respect, that, in our bill, insofar as we claim jurisdiction beyond 200 miles with respect to anadromous species [Sec. 102(2)], we do base that on article 7 of the Convention.

Mr. FRASER. I know it says that, but the gentleman from California concedes that one essential requirement is not being met, namely that any conservation measures must be nondiscriminatory. [Sec. 201]

Mr. STUDDS. The only respect in which action is taken under this bill which is based on that Convention is in that respect, the seaward extension beyond 200 miles. [Secs. 101; 102]

Mr. FRASER. I understand that but the procedures that are used and standards in the bill do not conform to the Convention. Let me get to the point I want to, which is, through this device, which does not meet the Convention, it is proposed the United States naval authority be extended to deal with fishing vessels outside the 200-mile limit. [Sec. 102]

Mr. STUDDS. I am not proposing that.

Mr. FRASER. The gentleman from California (Mr. Leggett) is proposing that the U.S. Navy's responsibility be extended beyond the 200-mile limit. What if the Japanese and other ships are fishing beyond the zone we have established as in the United States? [Secs. 102]

Mr. STUDDS. I would not agree with that.

Mr. FRASER. Where have I gone wrong?

Mr. STUDDS. Your statement is based on the assumption that one of the 1958 Conventions to which you refer speaks to the fisheries zone. Neither speaks to that question.

Mr. FRASER. I am making the point that the gentlemen is not proposing conservation measures in the bill which are nondiscriminatory [Sec. 201], which is a requisite to exercising article 7 of the 1958 Convention. Despite the gentleman's claim to be operating under article 7, the bill itself will be violating those provisions. But notwithstanding, the gentleman is going to try to give the U.S. Navy authority to deal with the ships on the high seas beyond the 200-mile limit. [Sec. 102]

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words. I yield to the gentleman from Minnesota (Mr. Fraser).

Mr. FRASER. Mr. Chairman, I think the gentleman for yielding.

Mr. Chairman, I ask, how far beyond the 200 miles does the gentleman propose to have the U.S. Navy patrolling and regulating and inspecting ships of other nations fishing for salmon? [Sec. 102(2)]

Mr. LEGGETT. If the gentleman will yield further, it is generally conceded in the law of the sea that the littoral nations on the basis of conservation plans would have the right to manage the species to the extent of their range. [Sec. 102(2)]

Mr. FRASER. This is the problem we have heard today. The gentleman is moving ahead of any agreement among the major nations of the world and the world community. The gentleman has decided that the United States has to move now when there is no agreement. On top of that he now looks to something that has not happened to defend his position. [Secs. 101; 102]

Mr. LEGGETT. We could have ignored article 7. I frankly admit, we, in effect, could violate the nondiscriminatory provision when we implement the fishing plan. [Sec. 201] Possibly we would not when we im-

plement the fishing plan, because it has to have certain consultation with the Secretary of State and other people, but it is not limited under the act. [Sec. 201] We give the same authority to the Fishing Council interacting with the Secretary of Commerce and the Secretary of State to develop a plan with the anadromous fish within the zone subject to the conditions that we mentioned on pages 25 and 26. [Secs. 201(a) ; 302(h) ; 303(a)]

Mr. FRASER. I thank the gentleman for his point, but I would like to stress to the Committee what we are doing here. We are not only violating the provisions of the 1958 Convention, which the bill claims we are complying with, but we are claiming jurisdictional authority to deal with some nations' vessels not within the 200-mile limit [Sec. 101], but beyond. [Sec. 102] It is a unilateral decision of the United States.

If I may ask the gentleman, using this example, supposing the Soviets continue to come in off our fisheries in the North Atlantic, what does the gentleman propose we do?

Mr. LEGGETT. I believe the Soviet Union is prepared to yield to an exercise of conservation jurisdiction by the United States, insofar as we do not purport to take a total exclusive claim to the area and will allow for the taking of an optimum obtainable yield. [Sec. 201(d)] We do not believe we can take an optimum obtainable yield ourselves and that will leave a substantial surplus for Bulgaria and Poland and these other countries that are taking 50 percent of the yield off the American coast. [Secs. 201(d) ; 201(e)]

I might say, we have not as yet implemented by legislation the 1958 agreement, which one would anticipate.

Second, I would point out that the agreement that the gentleman talks about that we have signed has not been signed by the Soviet Union, has not been signed by Japan, has not been signed by Korea, has not been signed by most of the people swiping our fish.

Mr. FRASER. I am not talking about intervention on that basis. There are historic fishing rights that Japan, the Federal Republic of Germany and others, have enjoyed. We are purporting unilaterally to restrict that right. [Sec. 201(e) (1)]

Mr. LEGGETT. No. The countries that have whiskers, I mean substantial whiskers, we are going to respect. The ones that have crept up over the past year, we have just Polish ships off California in the past year, do not have historic rights. We do not intend to recognize the historical rights that nations that have vacuumed our shores over the past few years.

Mr. FRASER. The gentleman would agree that in the North Atlantic fisheries meeting a few weeks ago there was an agreement reducing the catch by 23 percent. Would the gentleman agree that reduction in catch will have the effect of rebuilding stocks in the North Atlantic?

Mr. LEGGETT. That will help; but unfortunately, it is not all that simple.

Mr. FRASER. Is it not true, that this is no emergency situation, and that if we do not act this year, the fish are not going to disappear in the North Atlantic?

Mr. LEGGETT. That is partially true.

Mr. FRASER. Then if we wait for a few more years, it will not be too late.

Mr. LEGGETT. But unfortunately, we are still in a situation where we are taking like 250,000 tons off the Atlantic shores and the Soviet Union and others are taking 700,000 according to the revised agreement; so they are still taking three times more than what we are taking off those particular shores and that is an intolerable situation.

Mr. FRASER. I agree that there is a problem about inequitable division, and I think we have to reclaim our fisheries, but the problem is the way we are doing it. There is no emergency. The fish stocks are going to be rebuilt under the conservation provisions agreed to a few weeks ago. What we should do is work out an orderly arrangement.

The CHAIRMAN. Are there any further amendments to title II? If not, the Clerk will read title III.

The Clerk read as follows:

TITLE III—MANAGEMENT OF THE FISHERIES

SEC. 301. UNITED STATES JURISDICTION OVER CERTAIN FISHERIES.

(a) IN GENERAL [Sec. 102].—The fisheries management responsibility and authority of the United States extends to—

[Sec. 102(1)] (1) any coastal species within the fisheries zone;

[Sec. 102(2)] (2) any anadromous species wherever found throughout the range of such species in the high seas; and

[Sec. 102(3)] (3) any Continental Shelf species.

(b) INTERNATIONAL REGULATION OF HIGHLY MIGRATORY SPECIES [Sec. 103].—The fisheries management responsibility and authority of the United States under this Act does not extend to highly migratory species, and the United States shall not recognize the right of any foreign country to extend its rights, claims, or jurisdiction to such species. Such species shall be managed pursuant to international fishery agreements established for such purpose.

SEC. 302. FISHERIES MANAGEMENT RESPONSIBILITIES OF THE SECRETARY.

(a) IN GENERAL [Sec. 304].—Subject to the provisions of this Act, the Secretary shall manage all fisheries over which the United States has fishery management responsibility and authority under section 301(a). The management of any such fishery shall result in the regulation of fishing in that fishery by any vessel documented under the laws of the United States or registered under the laws of any State and by any other vessel in such manner as is necessary and appropriate to carry out the policy and purposes of this Act.

(b) MANAGEMENT PURSUANT TO MANAGEMENT PLAN [Sec. 304(c)].—Except as provided in section 305(d) or 308, the Secretary may not manage any fishery under the authority of subsection (a) except in accordance with a management plan which is prepared pursuant to section 304 for such fishery.

(c) NATIONAL FISHERIES MANAGEMENT STANDARDS [Sec. 301].—The management of the fisheries pursuant to this Act shall be consistent with the following national fisheries management standards:

(1) Management and conservation measures shall be based upon the best scientific biological information available.

(2) To the extent possible, an individual stock of fish shall be managed throughout its range.

(2) Management and conservation measures shall not discriminate between residents of different States.

(4) Management and conservation measures shall be designed to achieve the optimum sustainable yield of a stock of fish on a continuing basis.

(5) Management and conservation measures shall promote efficiency in harvesting techniques.

(6) Management and conservation measures shall be formulated to allow for unpredicted variations in fishery resources and their environment and for possible delay in the application of such measures.

(7) Management and conservation measures shall not result in unreasonable administration or enforcement costs.

(8) Management and conservation measures shall be designed to prevent depletion of fisheries resources.

SEC. 303. REGIONAL MARINE FISHERIES COUNCILS

(a) **ESTABLISHMENT** [Sec. 302(a)].—There are established seven regional marine fisheries councils to be known respectively as the New England Marine Fisheries Council, the Mid-Atlantic Marine Fisheries Council, the Southern Atlantic Marine Fisheries Council, the Gulf Marine Fisheries Council, the Pacific Marine Fisheries Council, the Alaska Marine Fisheries Council, and the Western Pacific Marine Fisheries Council (hereinafter referred to in this Act as the "Council" or the "Councils"). The States represented by each respective Council shall be as follows:

New England Marine Fisheries Council: Maine; New Hampshire; Massachusetts; Rhode Island; and Connecticut.

Mid-Atlantic Marine Fisheries Council: New York; New Jersey; Delaware; Pennsylvania; Maryland; and Virginia.

Southern Atlantic Marine Fisheries Council: North Carolina; South Carolina; Georgia; Florida; The Commonwealth of Puerto Rico; and The Virgin Islands.

Gulf Marine Fisheries Council: Texas; Louisiana; Mississippi; Alabama; and Florida.

Pacific Marine Fisheries Council: California; Oregon; Washington; and Idaho.

Alaska Marine Fisheries Council: Alaska; Oregon; and Washington.

Western Pacific Marine Fisheries Council: Hawaii; American Samoa; and Guam.

(b) **MEMBERSHIP OF COUNCILS.**—

(1) **NUMBER AND APPOINTMENT** [Sec. 302(b); 302(c)].—Each Council established by subsection (a) shall consist of the following members:

(A) the Executive Director of the Marine Fisheries Commission for the geographical area concerned;

(B) one member appointed by, and serving at the pleasure of, the Governor or chief executive officer of each State represented on the Council; except that in the case of the Alaska Marine Fisheries Council, three members appointed by the Governor of Alaska;

(C) the Regional Director of the National Marine Fisheries Service for the geographical area concerned;

(D) the Regional Director of the United States Fish and Wildlife Service for the geographical area concerned;

(E) six members (other than officers or employees of the Federal Government or of any State government) appointed by the Secretary from a list prepared by the members specified in subparagraphs (A), (B), (C), and (D) of this paragraph of not less than 20 individuals having knowledge and experience in commercial or recreational fishing, and such appointments shall fairly reflect the degree to which commercial and recreational fishermen participate in the fisheries in the geographical area concerned; and

(F) two members (other than officers or employees of the Federal Government or of any State government or individuals referred to in subparagraph (E)) who shall represent the public interest and who shall be appointed by the Secretary from a list prepared by the members specified in subparagraphs (A), (B), (C), and (D) of this paragraph of not less than six individuals.

A vacancy in any Council shall be filled in the manner in which the original appointment was made.

(2) **CONTINUATION OF MEMBERSHIP** [Sec. 302(b)].—If any member of any Council who was appointed to such Council pursuant to paragraph (1) (A), (C), or (D) leaves the office he is holding at the time of appointment, or if any member of any Council who was appointed from persons who are not officers or employees of any government becomes an officer or employee of any government, he may continue as a member of such Council for not longer than the 90-day period beginning on the date he leaves that office or becomes such an officer or employee, as the case may be.

(3) **TERMS** [Sec. 302(b)].—

(A) Except as provided in subparagraphs (B) and (C) of this paragraph, any member appointed pursuant to paragraph (1) (E) or (F) shall be appointed for a term of 3 years.

(B) Of the members first appointed pursuant to paragraph (1) (E)—

(i) two shall be appointed for a term of 1 year.

(ii) two shall be appointed for a term of 2 years, and

(iii) two shall be appointed for a term of 3 years,

as designated by the Secretary at the time of appointment.

(C) Of the members first appointed pursuant to paragraph (1) (F)—

- (i) one shall be appointed for a term of 2 years; and
- (ii) one shall be appointed for a term of 3 years,

as designated by the Secretary at the time of appointment.

(D) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(E) Any individual appointed pursuant to paragraph (1) (E) or (F) is eligible for reappointment.

(c) **PAY AND TRAVEL EXPENSES [Sec. 302(d)].—**

(1) **PER DIEM RATE.**—Members of each Council, other than members who are full-time officers or employees of the United States or any State, shall each be entitled to receive \$100 for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council.

(2) **TRAVEL EXPENSES.**—While away from their homes or regular places of business in the performance of services for any Council, the members thereof shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(d) **TRANSACTION OF BUSINESS [Sec. 302(e)].—**

(1) **QUORUM.**—A majority of the members of any Council shall constitute a quorum, but a lesser number may hold hearings.

(2) **CHAIRMEN.**—A Chairman for each Council shall be elected by the members of each Council from among members appointed pursuant to subsection (b) (1) (B), (E), and (F).

(3) **MEETINGS.**—Each Council shall meet at the call of the Chairman or a majority of its members, but shall meet for at least 1 day during each calendar quarter.

(e) **STAFF AND ADMINISTRATION.—**

(1) **COUNCIL STAFF.**—The Secretary shall make available to each Council such staff, information, and personnel services as it may reasonably require to carry out its functions.

(2) **DETAIL OF FEDERAL PERSONNEL.**—Upon request of any Council, and after consultation with the Secretary, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist it in carrying out its functions under this Act.

(3) **SUPPORT SERVICES.**—The Administrator of General Services, after consultation with the Secretary, shall provide to any Council on a reimbursable basis such administrative support services as the Council may request.

(4) **STATEMENT OF ORGANIZATION.**—Each Council, after consultation with the Secretary, shall publish and make available to the public a statement of the organization, procedure, and practices of the Council.

(f) **ADVISORY PANELS [Sec. 302(g)].**—Each Council may establish advisory panels to assist the Council in carrying out its functions under this Act.

(g) **FUNCTIONS [Sec. 302(h)].—**

(1) **IN GENERAL.**—Each Council shall—

(A) solicit, by means of public hearings to the extent practicable, and evaluate on a continuing basis comments and recommendations from all interested persons in the geographical area concerned with respect to the administration and implementation of the provisions of this Act;

(B) develop fishery management plans pursuant to section 304 for adoption by the Secretary, and take such other actions with respect to fishery management plans as may be required by such section; and

(C) submit to the Secretary, within 30 days after the close of each calendar quarter, a report setting forth the results of the Council's activities under this Act during such quarter.

(2) **STATEMENT OF DISAGREEMENT.**—If any matter submitted to the Secretary pursuant to subparagraph (B) or (C) of paragraph (1) did not receive the unanimous vote of the Council, the members of the Council in disagreement may submit to the Secretary a statement setting forth the reasons for their disagreement.

SEC. 304. [Sec. 303] PREPARATION OF FISHERY MANAGEMENT PLANS BY COUNCILS.

(a) PLANS PREPARED ON INITIATIVE OF COUNCIL OR AT REQUEST OF SECRETARY.—

(1) ON INITIATIVE OF COUNCIL.—Any Council may at any time prepare a fishery management plan with respect to any species referred to in section 301(a).

(2) AT REQUEST OF SECRETARY.—The Secretary may request any Council to prepare a fishery management plan with respect to any species referred to in section 301(a).

(3) APPLICATION OF PLANS.—Any fishery management plan prepared pursuant to paragraph (1) or (2) shall be limited to species in the fisheries zone (and seaward of the zone in the case of anadromous species and Continental Shelf species) adjacent to the States represented on the Council. In any case in which the range of a species includes waters within the fisheries zone which are adjacent to States represented on more than one Council, the Secretary shall designate which Council shall prepare the fishery management plan.

(b) SCOPE OF MANAGEMENT PLANS.—

(1) IN GENERAL.—Any fishery management plan which is prepared by any Council shall—

(A) contain the conservation and other measures which the Council deems appropriate with respect to the management of the species or the fishery concerned; and

(B) specify such conditions and limitations governing fishing by any vessel documented under the laws of the United States or registered under the laws of any State, or by any other vessel, which the Council believes should be implemented to carry out such measures within the territorial sea of the United States, the fisheries zone, and, in the case of any anadromous species or Continental Shelf species, in water seaward of such zone.

(2) INFORMATION WITH RESPECT TO RELEVANT INTERNATIONAL OBLIGATIONS.—Any Council which is preparing a fishery management plan in its own initiative shall request the Secretary to provide, and the Secretary when requesting any Council to prepare any such plan shall provide, to the Council such information as may be appropriate with respect to those international fisheries agreements and any other pertinent information relating to foreign fishing which apply, or may apply, within the fisheries zone and in waters seaward of such zone with respect to the fishery covered by the plan.

(3) SPECIFIC PLAN REQUIREMENTS [Secs. 303(a) ; 303(b)].—Any fishery management plan prepared by any Council may—

(A) designate zones where, and designate periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified vessels or with specified gear;

(B) establish a system under which access to the fishery shall be limited in order to achieve optimum sustainable yield on a basis which may recognize, among other considerations, present participation in the fishery or fisheries, historical fishing practices and dependence on the fishery, value of existing investments in vessels and gear, capability of existing vessels to engage in other fisheries, history of compliance with fisheries regulations imposed pursuant to this Act, and the cultural and social framework in which the fishery is conducted;

(C) establish limitations on the catch of fish based on area, species, size, number, weight, sex, incidental catch, total biomass, and other factors necessary to carry out the policy and purposes of this Act, including the size or number or nature of the vessels or gear used in such catch;

(D) prohibit, limit, condition, or require the use of specified types of fishing gear, vessels, or equipment for such vessels, including devices which may be required solely or partially to facilitate enforcement of the provisions of this Act;

(E) specify those licenses, permits, or fees (the amount of which may vary between domestic and foreign fishermen, between different categories of domestic fishermen, or between different categories of foreign fishermen) which should be required as a condition to engaging in any fishery or other activity regulated pursuant to this Act;

(F) require the submission to the Secretary of pertinent statistics, including but not limited to information regarding type of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, and number of hauls; and

(G) prescribe such other limitations or requirements as the Council deems necessary and appropriate to carry out the purposes of this Act.

(4) CONFIDENTIALITY OF STATISTICS [Sec. 303(d)].—Statistics which are required to be submitted to the Secretary by persons pursuant to paragraph (3) (F)

shall be confidential (except when required under court order) and the Secretary shall by regulation prescribe such procedures as may be necessary to preserve such confidentiality. Such statistics may be released or made public in any aggregate or summary form which does not directly or indirectly disclose the identity or business of such persons.

(5) **PROPOSED REGULATIONS [Sec. 303(c)].**—Any Council may prepare such proposed regulations as it deems necessary and appropriate to carry out any fishery management plan prepared by it and the Secretary shall take such regulations into account when developing proposed regulations to be promulgated pursuant to section 307.

SEC. 305. [Sec. 304] REVIEW, ADOPTION, OR OTHER ACTION BY SECRETARY REGARDING FISHERY MANAGEMENT PLANS

(a) **ACTION BY SECRETARY AFTER RECEIPT OF PLAN [Sec. 304(a)].**—Upon receipt of any fishery management plan prepared by any Council, the Secretary, within 60 days after the date on which the plan is received, shall—

- (1) review the plan as provided for in subsection (c) ;
- (2) notify in writing the Council of his approval, partial approval, or disapproval of the plan ; and
- (3) in the case of partial approval or disapproval of the plan, include with such notification his objections thereto and the reasons therefor, and request the Council to amend the plan within 45 days.

(b) **AMENDED PLAN [Sec. 304(a)].**—Within 30 days after receiving an amended fishery management plan requested by him pursuant to subsection (a) (3), the Secretary shall notify in writing the Council of his approval or disapproval and, in the case of disapproval, his reasons therefor.

(c) **REVIEW OF PLANS [Sec. 304(b)].**—The Secretary shall review any fishery management plan submitted to him by any Council. In carrying out such review, the Secretary shall—

- (1) consider existing and projected population levels of the fish involved ;
- (2) evaluate the need for, and the extent to which, the plan will contribute to the conservation and management of such fish ;
- (3) consider existing fishery management programs, statistics, and data relating to such fish ;
- (4) if the plan will apply to foreign fishing vessels beyond the fisheries zone, consult with the Secretary of State ;
- (5) examine and evaluate the management procedures proposed in the plan in order to determine if the regulation of the fishery concerned in the fisheries zone will be consistent on an interstate basis and consistent with the management procedures which are in effect in the territorial sea of the United States ;
- (6) if the plan or proposed regulations involve methods and procedures for enforcement at sea, consult with the Secretary of the department in which the Coast Guard is operating ;
- (7) consult with other Federal agencies, the commercial and recreational fishing industries, and, to the extent practicable, any other person having an interest in the conservation of the fish involved and in the enhancement of the marine fisheries of the United States ;
- (8) analyze the proposed plan in order to determine whether it is consistent with the national fisheries management standards set forth in section 302(c) ; and
- (9) consider such other relevant factors as he deems necessary and appropriate to carry out the purposes of this Act.

(d) **PREPARATION OF PLANS BY SECRETARY [Sec. 304(c)].**—If any Council which is requested by the Secretary to prepare a fishery management plan fails to do so within such reasonable time as shall be specified by the Secretary, or if the Secretary disapproves an amended plan under subsection (b) and he determines that such a plan is needed, then the Secretary shall prepare a fishery management plan for the fishery concerned. The fishery management plan requirements set forth in section 304(b) apply with respect to any plan prepared by the Secretary.

SEC. 306. LICENSE FEES.

(a) **DEFINITION [Secs. 204(b) (10) ; 304(d)].**—As used in this section, the term "license fee" means any fee which is imposed on any person under any

fishery management plan implemented under this Act for the privilege of fishing.

(b) **COLLECTION BY SECRETARY.**—All license fees imposed under any fishery management plan implemented under this Act shall be collected by the Secretary.

(c) **CREDIT OF LICENSE FEES TO SEPARATE TREASURY ACCOUNT.**—

(1) **ESTABLISHMENT OF ACCOUNT.** [Secs. 204(b) (10) ; 304(d)]—There is established in the Treasury of the United States a separate account into which all license fees collected by the Secretary shall be credited.

(2) **FEES COLLECTED FROM FOREIGN FISHERMEN.** [Sec. 204(b) (10)]—Ten percent of all of the license fees collected by the Secretary pursuant to any fisheries management plan from foreign fishermen shall be credited to the account established in paragraph (1) of this subsection and shall remain available without fiscal year limitation to carry out the purposes of subsection (d).

(3) **OTHER FEES.** [Sec. 304(d)]—All license fees collected by the Secretary pursuant to any fishery management plan (other than the license fees referred to in paragraph (2) of this subsection) shall be credited to the account established in paragraph (1) of this subsection and shall remain available to carry out the purposes of subsection (e).

(d) **REIMBURSEMENT OF CERTAIN FOREIGN FEES IMPOSED ON UNITED STATES FISHERMEN.**—

(1) **FEES ELIGIBLE FOR REIMBURSEMENT.** [Sec. 304(d)]—The Secretary, under such regulations as he shall prescribe, shall reimburse any owner or operator of a United States fishing vessel for all or part of any license or permit fee which is imposed on such owner or operator by any foreign nation for the privilege of fishing in waters under the jurisdiction of that nation if—

(A) the United States recognizes the jurisdiction of that nation over fisheries conservation and management in such waters; and

(B) United States vessels have fished or carried out fishing-support activities in such waters.

(2) **LIMITATION ON REIMBURSEMENT.** [Sec. 304(d)]—The Secretary shall reimburse any owner or operator of a United States fishing vessel under paragraph (1) of the subsection for the amounts by which the license or permit fee imposed by the foreign nation exceeds the average license fee imposed under all fishery management plans implemented under this Act. Such average license fee shall be computed on the basis of all license fees in effect at the time such foreign fee was imposed.

(3) **REIMBURSEMENT FUNDING.** [Sec. 304(d)]—Reimbursement by the Secretary under paragraph (1) of this subsection shall be made first out of the fees credited pursuant to subsection (c) (2), and thereafter out of funds which are hereby authorized to be appropriated to carry out the purposes of this subsection.

(e) **FISHERY RESEARCH AND DEVELOPMENT.** [Sec. 304(e)]—All license fees collected under any fishery management plan and credited pursuant to subsection (c) (3) shall be used by the Secretary to carry out stock assessment and such other research and development which the Secretary deems appropriate with respect to the fishery resources within the geographical area of responsibility of the Council concerned.

SEC. 307. [Sec. 305] IMPLEMENTATION OF FISHERY MANAGEMENT PLANS.

(a) **IN GENERAL.** [Sec. 305(a)]—After the Secretary has approved any fishery management plan prepared by any Council or prepared by him, the Secretary shall, as soon as practicable thereafter publish in the Federal Register the plan and all regulations which he proposes to promulgate in order to implement the plan. Interested persons shall be afforded a period of not less than 45 days after such publication within which to submit written data, views, or comments on the proposed regulations. Except as provided in subsection (b), the Secretary may, after the expiration of such period and after consideration of all relevant matters presented, promulgate the regulations with such modifications, if any, as he deems appropriate.

(b) **OBJECTIONS TO PROPOSED REGULATIONS.** [Sec. 305(a) (2)]—On or before the last day of a period fixed for the submission of written data, views, or comments under subsection (a), any citizen (which for purposes of this section means any individual, corporation, partnership, or other legal entity domiciled in any State) who, or any State which, may be adversely affected by the plan or the proposed regulations may file with the Secretary written objections to specific provisions of the plan or the proposed regulations, stating the grounds therefor, and may request a public hearing on such objections. If the Secretary determines

that the citizen filing objections may be adversely affected and such citizen has requested a hearing, or if a State requests a hearing, the Secretary shall not promulgate the regulations except as provided for by subsection (c).

(c) **HEARINGS AFTER OBJECTIONS.** [Sec. 305(b)]—As soon as practicable after the period of filing objections has expired, if the Secretary determines that any citizen of the United States filing objections may be adversely affected and such citizen has requested a hearing, or if a State requests a hearing, the Secretary shall publish in the Federal Register a notice specifying the time and place at which a public hearing shall be held, the provisions of the proposed regulations to which such objections have been filed, and such other provisions as he may designate for consideration. The Secretary thereafter shall hold a public hearing in accordance with section 553 of title 5, United States Code, for the purpose of receiving information relevant to the matters identified in the notice of hearing. If two or more citizens of the United States or States request hearings within the prescribed period and the Secretary deems such hearing appropriate, the Secretary may consolidate such hearings in the interest of time and economy. At the hearing any interested citizen or State may be heard. As soon as practicable after the completion of the hearing, the Secretary shall act upon such objections, make his determinations public (including a statement of his reasons therefor), and promulgate the regulations with such modifications, if any, as he deems appropriate.

(d) **REVISION OF REGULATIONS.** [Sec. 305(g)]—The Secretary may from time to time revise any regulation promulgated pursuant to this section in accordance with the procedures prescribed in subsections (a) through (c).

(e) **EMERGENCY REGULATIONS.** [Sec. 305(e)]—Notwithstanding subsections (a), (b), and (c), the Secretary may waive, if the Council concerned consents, by the affirmative vote of not less than two-thirds of the membership of the Council, to such waiver, the requirements for notice and public hearing set forth in such subsections with respect to any regulation implementing any fishery management plan if he finds (and incorporates the finding and a brief statement of the reasons thereof in the publication of the regulation) that, due to an emergency situation arising with respect to the fishery concerned, notice and hearing thereon are impracticable, unnecessary, or contrary to the public interest. Written objections to such procedure may be submitted within 30 days after the effective date of any such emergency regulation. If any such written objection is so received, the Secretary shall, not later than 40 days after such effective date, initiate the procedures set forth in subsection (a), (b), and (c). Any emergency regulation promulgated pursuant to this subsection shall remain in effect for one year after the date on which the Secretary publishes notice of proposed rulemaking required by subsection (a), unless the Secretary terminates such regulation by notice in the Federal Register at any earlier date.

SEC. 308. [Sec. 305(e)] TEMPORARY EMERGENCY FISHERY MANAGEMENT PLANS PREPARED AND IMPLEMENTED BY THE SECRETARY WITH RESPECT TO CERTAIN FISHERIES.

(a) **IN GENERAL.**—Before the close of the 90-day period beginning on the date of the enactment of this Act, and without regard to sections 304 through 307 except as provided in subsection (d) of this section, the Secretary, on his own initiative or upon the request of any State, shall with respect to any coastal species or Continental Shelf species which he believes to be, as of the date of the enactment of this Act, (1) depleted, (2) in imminent danger of becoming depleted, or (3) under intensive use but unregulated because of the absence of management authority—

(A) prepare, after consultation with appropriate States and fishing industry representatives, a management plan, which shall apply within those waters which comprise the contiguous fisheries zone established by the first section of the Act of October 14, 1966, for the fishery; and

(B) promulgate such regulations as may be necessary and appropriate to implement such plan.

(b) **INTERIM REPORT.**—Before the close of the 45-day period beginning on the date of the enactment of this Act, the Secretary shall submit to the Congress a report which sets forth those fisheries which he will take action on pursuant to subsection (a).

(c) **PLAN REQUIREMENTS.**—The Secretary, in preparing any plan required by subsection (a), shall include such requirements set forth in section 304(b)(3)

as he deems to be necessary and appropriate with respect to the fishery concerned, but may not, pursuant to such plan, impose limited entry or license fees on vessels documented under the laws of the United States or otherwise registered under the laws of any State in any area of the waters comprising such contiguous fisheries zone.

(d) **TREATMENT OF REGULATIONS.**—Any regulation which is promulgated by the Secretary to implement any fishery management plan prepared pursuant to this section shall be treated as an emergency regulation promulgated under section 307(e); except that any such regulation shall remain in effect for 180 days after the date on which the regulation is promulgated unless the Secretary terminates such regulation at an earlier date.

SEC. 309. [Sec. 306] STATE JURISDICTION

(a) **IN GENERAL.**—Except as provided in subsection (b), nothing in this Act shall be construed as extending or diminishing the jurisdiction of any State seaward of the coastline of the United States.

(b) **ASSERTION OF FEDERAL JURISDICTION IN CERTAIN INSTANCES.**—

(a) **FINDINGS.**—The Congress finds that anadromous species, certain coastal species, and certain Continental Shelf species move, during their life cycles, within waters over which more than one State has jurisdiction, and move from such waters to waters that are not within the jurisdiction of any State. The Congress further finds that, although the purpose of this Act is not to affect State jurisdiction over fish principally within waters under State jurisdiction, there may be instances where Federal regulation within such waters of any anadromous species, coastal species, or Continental Shelf species may be necessary in order to insure the effectiveness of a management plan implemented under this Act for a fishery.

(2) **FINDINGS AND ACTION BY SECRETARY.**—If the Secretary finds, after notice and opportunity for agency hearing, that—

(A) any fishery management plan implemented pursuant to this Act applies to any anadromous species, coastal species, or any Continental Shelf species which are to any extent, or are at any time, under the jurisdiction of any State; and

(B) such State has taken any action, or omitted to take any action, the result of which will substantially and adversely affect the carrying out of the management plan which applies to a fishery, the Secretary shall promptly declare that such fishery within waters, other than internal waters, under jurisdiction of the State shall be subject to regulation by him pursuant to the management plan, the Secretary, as soon as practicable thereafter, shall assume responsibility for such regulation.

(C) **RESUMPTION OF STATE REGULATION.** [Sec. 306(b)(2)]—If the Secretary pursuant to subsection (b), assumes responsibility for the regulation of any fishery within waters under the jurisdiction of any State, the State may at any time thereafter apply to the Secretary for reinstatement of State regulation of such fishery. If the Secretary finds, after notice and opportunity for agency hearing, that the reasons for which regulation of the fishery by him was assumed no longer prevail, the Secretary shall promptly declare such fishery to be subject to regulation by the State within that State's waters pursuant to the fishery by him was assumed no longer prevail, the Secretary shall promptly declare such fishery to be subject to regulation by the State within that State's waters pursuant to the fishery management plan.

SEC. 310. [Sec. 307] PROHIBITED ACTS.

It is unlawful for any person—

(1) to violate any provision of this Act of any regulation promulgated under this Act to carry out any fishery management plan implemented pursuant to this Act;

(2) to fishing pursuant to a permit issued under section 201(g), to violate any condition or restriction accepted by the foreign nation concerned pursuant to that section in regard to the permit;

(3) to refuse to permit any authorized representative of the Secretary, or of the Secretary of the Department in which the Coast Guard is operating, to board any fishing vessel under the control of such person if the purpose of the requested boarding is to carry out any inspection relating to the enforcement of this Act, any regulation referred to in paragraph (1), or any condition or restriction referred to in paragraph (2);

(4) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized representative of the Secretary, or of the Secretary of the Department in which the Coast Guard is operating, who is engaged in any reasonable inspection of a kind referred to in paragraph (3); or

(5) to ship, transport, purchase, offer for sale, import, export, or have in custody, possession, or control any fish taken in violation of this Act, any regulation referred to in paragraph (1), or any condition or restriction referred to in paragraph (2).

SEC. 311. [Sec. 308] CIVIL PENALTIES.

(a) **ASSESSMENT OF PENALTY [Sec. 308(a)].**—Any person who is found by the Secretary after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by paragraph (1), (2), or (5) of section 310 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(b) **REVIEW OF CIVIL PENALTY [Sec. 308(b)].**—Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2) of title 5, United States Code.

(c) **ACTION UPON FAILURE TO PAY ASSESSMENT [Sec. 308(c)].**—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) **COMPROMISE OR OTHER ACTION BY SECRETARY [Sec. 308(d)].**—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

SEC. 312. [Sec. 309] CRIMINAL PENALTIES.

Any person who commits any act prohibited by paragraph (3) or (4) of section 310 shall be fined not more than \$50,000; except that if such person uses a deadly or dangerous weapon in the commission of any such act, such person shall be fined not more than \$100,000, or imprisoned for not more than 10 years, or both.

SEC. 313 [Sec. 310] FORFEITURE.

(a) **APPLICATION FOR FORFEITURE.**—Any district court of the United States shall have jurisdiction, upon application by the Secretary or the Attorney General, to order forfeited to the United States any fishing vessel, catch, cargo, fishing gear, or the monetary value thereof as determined by the court, used, intended for use, or acquired in the commission by any person of any act prohibited by section 310. In any such proceeding, such court may at any time enter such restraining orders or prohibitions or take such other actions as are in the interest of justice, including the acceptance of satisfactory performance bonds in connection with any property subject to forfeiture.

(b) **SEIZURE.**—If a judgment is entered under this section for the United States, the Attorney General is authorized to seize all property or other interest declared forfeited upon such terms and conditions as are in the interest of justice. All provisions of law with respect to violations of the customs laws relating to the disposition of forfeited property, the proceeds from the sale of

such property, the remission or mitigation of forfeitures and the compromise of claims and the award of compensation to informants with respect to forfeitures, shall apply to forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section. Such duties as are imposed upon the collector of customs or any other person with respect to seizure, forfeiture, or disposition of property under the customs laws shall be performed with respect to property used, intended for use, or acquired in the commission of any act prohibited by section 310 by such officers or other persons as may be designated for that purpose by the Secretary.

SEC. 314. [Sec. 311] ENFORCEMENT.

(a) **IN GENERAL [Sec. 311(a)].**—The provisions of this Act and any regulation promulgated under this Act to carry out any fishery management plan implemented under this Act shall be enforced by the Secretary, and the Secretary of the Department in which the Coast Guard is operating. In carrying out such enforcement, the Secretary and the Secretary of the Department in which the Coast Guard is operating may utilize by agreement, with or without reimbursement, the personnel, services, and facilities—

(1) of any other Federal agency; or

(2) of any State agency, but only for purposes of enforcement with respect to (A) any vessel in the fisheries conservation and management zone, or (B) any vessel documented under the laws of the United States or otherwise registered under the laws of any State, wherever any such vessel may be found.

(b) **AUTHORITY [Sec. 311(b)].**—Any individual authorized pursuant to subsection (a) to enforce the provisions of this Act, any regulation issued thereunder, and any condition or restriction applicable to any permit issued under section 201 may—

(1) with or without a warrant or other process, board and inspect any fishing vessel documented under the laws of the United States or otherwise registered under the laws of any State or any other fishing vessel subject to the jurisdiction of the United States, and its catch and gear, upon the waters of the fisheries conservation and management zone or upon all high seas seaward of such zone;

(2) with or without a warrant or other process, arrest any person committing in his presence or view a violation of section 310 (3) or (4);

(3) execute any warrant or other process issued by any officer or court of competent jurisdiction;

(4) seize any fishing vessel and fishing gear used in, and any fishing vessel on which occurs, the violation of any provision of this Act, any regulation promulgated to carry out any management plan implemented pursuant to this Act, or any condition or restriction applicable to any permit issued under section 201; and

(5) seize any fish, wherever found, taken in violation of any provision of this Act or any regulation or condition or restriction referred to in paragraph (4) of this subsection.

Any fishing vessel, fishing gear, or fish seized pursuant to paragraph (4) or (5) of this subsection may be disposed of pursuant to an order of a court of competent jurisdiction, or, if perishable, in such manner as may be prescribed by the Secretary by regulation.

(c) **STATE OFFICERS [Sec. 311(b)].**—Any officer of any State, if designated pursuant to subsection (a) to function as a Federal law enforcement agent shall not be considered to be a Federal employee of the United States for the purposes of any laws administered by the Civil Service Commission.

(d) **JURISDICTION OF COURTS [Sec. 311(d)].**—The Federal district courts shall have exclusive jurisdiction over all cases arising under this Act, any regulation promulgated under the Act to carry out any fishery management plan implemented under this Act and any permit issued pursuant to section 201, and may issue any warrants or other processes as may be necessary. In the case of Guam, actions arising under such regulations may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions.

(e) **PROCEDURE.**—Notwithstanding the provisions of section 2464 of title 28, United States Code, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the

execution of such process, or discharge any fish seized if the process has been levied, on receiving from the respondent or claimant of the fish a bond or other surety satisfactory to the court, conditioned to deliver the fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such case. Such bond or other surety shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in the event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the fish may be sold for not less than its reasonable market value and the proceeds of such sale placed in the registry of the court pending judgment in the case.

Mrs. SULLIVAN. Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the record and open to amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

Mr. ECKHARDT. Mr. Chairman, reserving the right to object, and I think I shall not object, but I likewise would like to know what type of limitation the gentlewoman would put on this title.

Mrs. SULLIVAN. My understanding is that there are three amendments at the desk. I do not know what else is proposed. I would say within 20 minutes.

Mr. ECKHARDT. May we not proceed again as we did the last time? It is so much better than the previous 40-minute debate.

Mrs. SULLIVAN. My time is the gentleman's time. I can stay until midnight.

Mr. ECKHARDT. We did not take any more time on the last than we did on the first.

Mr. FRASER. Mr. Chairman, we only took 30 minutes on this title, which is exactly the limitation the gentlewoman had intended to offer. It would seem to me, Mr. Chairman, that it would be better if the gentlewoman would hold off until we find out what we have.

Mr. ECKHARDT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

AMENDMENT OFFERED BY MR. SLACK

Mr. SLACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Slack: Page 55, line 21, after "credited" insert: *Provided*, That, notwithstanding any other provision of this Act, no funds shall be available from said account except as provided in appropriation acts." [Secs. 204(b)(10); 304(d)]

Mr. SLACK. Mr. Chairman, section 306 of the pending bill deals with the collection and use of license fees. That section would establish a separate account in the Treasury into which such fees would be paid. The section also establishes certain terms and conditions under which such fees could be used. [Secs. 204(b)(10); 304(d)]

As presently written, Mr. Chairman, this would constitute a permanent, indefinite appropriation—backdoor spending. [Secs. 204(b)(10); 304(d)]

I realize that House Resolution 760, the rule which makes consideration of the bill in order, carries language waiving points of order for failure to comply with the provisions of clause 5, rule XXI. That clause says:

No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

In spite of the waiver, it seems appropriate, Mr. Chairman, to have any appropriation of funds subjected to the regular appropriation process. [Secs. 204(b) (10) ; 304(d)]

I should like to point out further that section 401(a) of the Congressional Budget Act of 1974 (Public Law 93-344) states:

It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection (c) (2) (A) or (B) (or any amendment which provides such new spending authority), unless that bill, resolution, or amendment also provides that such new spending authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

Section 402(f) of that act says:

The Committee on Appropriations of the House of Representatives and the Senate shall study on a continuing basis those provisions of law, in effect on the effective date of this section, which provide spending authority or permanent budget authority. Each committee shall, from time to time, report to its House its recommendations for terminating or modifying such provisions.

Mr. Chairman, I have no quarrel with the fees and programs discussed in section 306. However, I do not think it would be appropriate to exclude these matters from the normal appropriation process. My amendment simply requires that the licensee fees which would be paid into the special amount be subject to the appropriation process. [Secs. 204(b) (10) ; 304(d)]

I ask for your support of my amendment.

Mrs. SULLIVAN. Mr. Chairman, we have discussed this amendment with the gentleman from West Virginia (Mr. Slack) and with the minority. We are ready to accept his amendment.

Mr. SLACK. I thank the gentlewoman.

Mr. MAHON. Mr. Chairman, the distinguished gentleman from West Virginia, chairman of the State, Justice, Commerce Appropriations Subcommittee which has certain funding jurisdiction in the general area, has offered an amendment to section 306 of the bill which sets up a new permanent indefinite appropriation. [Secs. 204(b) (10) ; 304(d)]

I wish to call attention to section 402(f) of the Congressional Budget Act which, when fully implemented next year, charges the Appropriations Committees of the House and Senate with the responsibility of conducting continuing studies of provisions of law which provide permanent spending authority. There is no question but that this is a problem of serious proportions and I am disturbed by the provision in section 306 of this bill establishing a new permanent financing device. [Secs. 204(b) (10) ; 304(d)]

In enacting the new budget control legislation, the Congress clearly recognized the pitfalls of fragmenting the regular authorization and appropriation process and preempting the ability of the Congress to reorder priorities because of the uncontrollability of the budget. In making financing decisions, we must make every effort not to take actions which mortgage future budgets. While the amount of money involved in the permanent appropriation in this bill is not large in relative terms, the financing principle, in my judgment, is undesirable. **[Secs. 204(b)(10); 304(d)]**

Mr. Chairman, I support the amendment of the gentleman from West Virginia and urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. Slack).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LOTT

Mr. LOTT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lott: Page 42, strike out lines 4 through 9, inclusive, and insert the following:

"(B) the head of the agency responsible for fisheries management and conservation of each State represented on the Council, except that in the case of the Alaska Marine Fisheries Council, the head of such agency in Alaska and two additional members appointed by, and serving at the pleasure of, the Governor of Alaska **[Sec. 302(d)]**;"

Page 43, line 15, after "(A)," insert "(B) **[Sec. 302(d)]**;"

Mr. LOTT. Mr. Chairman, the Marine Fisheries Conservation Act of 1975, H.R. 200, provides for the appointment of members to each of the seven Regional Marine Fisheries Councils. Among other appointees, the bill presently lists each Council as including one member appointed by the Governor of each State represented on the Council; except that in the case of the Alaskan Marine Fisheries Council, three members shall be appointed by the Governor of Alaska. **[Sec. 302(d)]**

This amendment would amend section 303(b) of the bill to require the head of the agency responsible for fisheries management and conservation of each State represented on the Council to be a member of the Council; except that in the case of the Alaska Marine Fisheries Council, the head of such agency in Alaska and two additional members appointed by the Governor of Alaska. **[Sec. 302(d)]**

Essentially, all my amendment does is direct that the head of each State's fisheries management and conservation agency be included as a Council member. I feel its acceptance as a part of this measure will go a long way toward making the operation of the Regional Marine Fisheries Councils more efficient and more effective. **[Sec. 302(d)]**

It has been my experience since I became familiar with the problems of fishermen and the fishing industry that the director of the State agency for fisheries management and conservation was the individual most knowledgeable with respect to the solutions to these problems. He has an acute awareness of the bounds and limitations of his area's fishery, the habits of his fishery's resources and the best methods for their preservation and propagation. **[Sec. 302(d)]**

In addition to these fundamental criteria for an effective Council member, the State director would already have a working knowledge of the requirements of this very legislation to which I offer this amendment. This individual is well-acquainted with his State laws as well as any Federal laws which would affect and promote the implementation of a regional management plan for his area. His access to information and his established channels of communication with other such directors would be an invaluable service to the Council. [Sec. 302(d)]

In short, Mr. Chairman, I am convinced that the input of the head of each State's fisheries management and conservation agency is absolutely essential to the success of the regional management conservation scheme of this legislation. [Sec. 302(d)]

Mrs. SULLIVAN. Mr. Chairman, again we have discussed this amendment with the author and with the minority, and we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi (Mr. Lott).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TREEN

Mr. TREEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Treen: On page 62, line 24, strike all on line 24 through the word "(b)" on line 25. [Sec. 306]

On line 3 of page 63, strike all of Sec. 309 (b) and (c) (All matter commencing on line 3 and continuing through line 23 of page 64.) [Sec. 306]

Remember the succeeding sections.

Mr. TREEN. Mr. Chairman, I will try to be brief because I know that the hour is late.

The effect of this amendment would be to strike the Federal preemption section, which is set forth in section 309 of the bill. [Sec. 306] The major thrust of this legislation is to establish a 200-mile zone. [Sec. 101] I do not quarrel with that at this point. But there is another aspect of this bill, which has rather far-reaching consequences, and which has not been brought to the attention of the committee. For the very first time the Federal Government, by statute, will attempt to invade the historic and traditional prerogative of the States to manage their fisheries within the 3-mile zone, that is, the territorial sea. I believe that is the first time. [Sec. 306(b)]

That is done in section 309, which gives the Secretary of Commerce the unfettered right—that is the bottom line—to declare that a fisheries management program put in place by the State must be lifted for any particular species. [Sec. 306(b)]

The Secretary of Commerce is the czar under the fisheries management program of this bill, because under section 305(d) [Sec. 304(c)] the Secretary of Commerce may disapprove plans brought in by the Regional Fisheries Councils. He can send them back for amendment. When they come back again, if he does not like them he can rewrite them. [Sec. 304(c)] And then, after that, under section 309, [Sec. 306(b)] he can say, "I do not think the State management in this area

is consistent with this plan." Actually, he has to determine that State action or inaction would "adversely and substantially" affect the Federal plan. He must use those words. [Sec. 306(b)]

But there is no question about the fact that if he decides that it is not consistent with the Federal plan, he may, by fiat, preempt the State plan. [Sec. 306(b)]

The coastal States have agencies to manage their fisheries and, indeed, many of the States have corresponded with me about this and have declared their support of this amendment. They see no reason for the preemption of the State plans. [Sec. 306(b)] I have a letter from the State of Florida, Department of Natural Resources, in which Mr. Harmon W. Shields, executive director, says:

Such preemption right up to the coastline, however, is totally unwarranted and should be dropped from this legislation.

I have similar correspondence from the State of California, from the State of Alabama, and I had a call from the State of New Jersey, I might say to the gentleman from New Jersey (Mr. FORSYTHE), that they are opposed to the preemptory section. It would not hurt this legislation to take section 309 out. [Sec. 306]

The States have traditionally managed the fisheries within the 3-mile zone. I think they are competent to do that. [Sec. 306(b)]

I know the argument will be made that this section will be rarely used and that there is lots of protection, but listen to what the committee says in its report, on page 73.

The committee is most hopeful that appropriate action will be taken by the States to cooperate with the Secretary so that Federal assertion of jurisdiction in such instances will not be necessary.

In other words, they say, "If you do it like we want to do it, we will not have to exercise this authority." [Sec. 306(b)]

I say let the Federal Government manage the fisheries in the 197-mile belt that they have, and let the States continue to manage the 3-mile zone which has been their traditional prerogative. [Sec. 306]

As I understand it, the gentleman's amendment only affect the area between the coastline outwards to 3 miles. It does not affect the area outside of it and does not have jurisdiction over it. [Sec. 306]

Mr. TREEN. That is correct.

I have been trying to preserve that which has been historic and traditional. There is no reason to use this kind of bill to invade the prerogative that the Federal Government has never gone into before. [Sec. 306(b)]

I am not trying to change the law. I am trying to leave it as it was before this bill was written. [Sec. 306]

I might say this: The argument has been made that the Federal Government must have this authority in order to manage certain species, and yet this bill does not attempt to manage fisheries in estuarine and bay areas. Certainly, if a fishery can be managed without going into the bays and the estuarine areas, it can be managed without going into the 3-mile zone. [Sec. 306(b)]

Mr. STUDDS. Mr. Chairman, I rise briefly in opposition to the amendment.

Mr. Chairman, section 309 [Sec. 306] of H.R. 200 provides a very limited authority in the Secretary of Commerce to temporarily impose a Federal fisheries management plan on a managed specie[s] of fish within the territorial sea of the United States where the coastal State would otherwise exercise exclusive management authority. [Sec. 306(b)]

At this time, there is no authority in either the States or the Federal Government to engage in fisheries management programs beyond the territorial sea. H.R. 200 establishes that authority in the Federal Government beyond the territorial sea and preserves the existing authority of States within the 3-mile territorial sea except under the very limited preemption provision of section 309. [Sec. 306] This section of the bill is necessary to insure that fisheries under a management plan will be managed throughout their range. [Sec. 306(b)] Most coastal species are found off the shores of at least two or more adjacent coastal States and are found both within and beyond the 3-mile territorial sea limit.

If a given fishery stock requires management and a plan is adopted for that specie[s], both the council preparing the plan and the Secretary will, of necessity, examine relevant State regulations dealing with that specie[s]. [Secs. 302; 303; 304; 305] The council could recommend that the Federal management plan override inconsistent State regulations which both substantially and adversely impact upon the effectiveness of the Federal plan, [Secs. 302; 303] but only the Secretary may make the decision to take this step. [Sec. 306(6)] Bear in mind that this decision by the Secretary can only be made after a full hearing under the Administrative Procedures Act, [Sec. 306(b)(1)] and that if the Secretary makes the requisite findings, the preemption of the State regulations can only continue so long as the condition which prompted the finding continues. [Sec. 306(b)(2)]

Thus, if adjacent coastal States off whose shores the managed stock of fish is caught have conflicting regulations, and it is this conflict that has brought about the Federal preemption, [Sec. 306(b)(1)] once the conflict is resolved the Federal preemption will terminate. [Sec. 306(b)(2)] It is our understanding that it is the actual and potential conflict between State regulations that has brought about the need for this provision. [Sec. 306(b)(1)]

Three interstate compacts have been in existence for many years covering the Atlantic, gulf, and Pacific coastal States. The Commissions established pursuant to these compacts have not been successful in resolving interstate disputes over fishery regulation. An effort is underway now to secure the adoption in all coastal States of a uniform State fisheries management act, but this has not yet been accomplished. While the instances of Federal preemption will undoubtedly be few and can only occur on a specie[s]-by-specie[s] basis, as opposed to a blanket preemption, there is clearly a need for this provision to insure that the objectives of the legislation are realized. This is basically a conservation bill. [Sec. 306(b)(1)]

I realize that a number of States have complained about this provision, particularly the State of Florida. It is worth noting, however, that while Florida is complaining about Federal preemption in this legislation, it is actively seeking legislation in the House to resolve an interstate conflict over the taking of spiny lobsters, legislation which the Merchant Marine and Fisheries Committee has already held hearings on, H.R. 2473. Very simply, the States cannot have it both ways. [Sec. 306(b)(1)] I urge the defeat of this amendment.

Mr. LEGGETT. Mr. Chairman, just so the record is clear, the statement was made that the Federal Government has never invaded the 3-mile area of States. I believe the record should show that with respect to endangered species legislation, we have invaded the 3-mile area of the States, perhaps not too effectively, but we have attempted to do that. [Sec. 306(b)(1)]

We are in the process now of reverting some of that jurisdiction back to some of the States.

Under the Marine Mammal Act we are doing exactly the same thing. There again we are attempting to revert some of that jurisdiction to the States under signed cooperative agreements.

So we are not pioneering in some new area here. I would state that this legislation could only be effective with the full cooperation of the States, for instance, with the full cooperation of the people of the State of Louisiana. [Sec. 306(b)(1)]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. Treen).

The question was taken; and the Chairman announced that the yeas appeared to have it.

Mr. TREEN. Mr. Chairman, on that I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. VAN DEERLIN

Mr. VAN DEERLIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Van Deerlin: On page 72, after line 25, insert the following [Sec. 311]:

"(f) If he deems it to be in the national interest, the President may suspend any provision of this section. [Sec. 311]"

Mr. VAN DEERLIN. Mr. Chairman, I offer this amendment as one who feels his back is to the wall, he is in the shadow of the goalposts, and he seeks to retrieve something. Resigned to its passage, I am trying to improve the bill.

I hope that I will especially have the attention of my colleagues on the west side of the aisle. In case the Members were not listening when the amendment was read, I will direct their attention to the middle of page 69 in the bill. There they will find a section which continues to the bottom of page 72, where my amendment falls. [Sec. 311]

This section deals with enforcement procedures to be established under this legislation. [Sec. 311] I would ask the Members, if they

have not looked at this closely, to note that it deals with the direction and activity of Coast Guard vessels to a distance of 200 miles from our shores. It deals with the matter of arrests, and issuance of warrants for arrest of persons of any flag violating this law, and it deals with the seizures of ships, of fishing gear, and of the catch aboard fishing vessels. It deals with the disposition of vessels which have been thus seized. [Sec. 311]

Under the Constitution, it is the President of the United States who is charged with leadership in matters of foreign policy. [Sec. 311]

This section, it seems to me, dealing with enforcement, starts down a very dangerous trail, one in which the President should be given some hand. [Sec. 311]

We have not been uniformly successful, we in Congress, in dealing with some foreign policy issues—whether the matter of Rhodesian chrome, or the Panama Canal, or Soviet emigration, or Turkish aid and keeping the peace with our allies in NATO.

Let us not increase our stumbling by setting up here an enforcement procedure which goes far beyond anything that has been proposed or executed except by piratical nations to the south. Let us move at least with discretion. Let us make the President a party to the execution and the enforcement of this law. [Sec. 311]

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. VAN DEERLIN. I will be happy to yield.

Mr. LEGGETT. Mr. Chairman, since this is the last time for "Casey at the Bat," I want to say this: The gentleman made reference to enforcement provisions that only piratical nations to the south enforce or are claiming. [Sec. 311]

The language in this section of the legislation is exactly what has been the law in the United States with respect to the 12-mile limit since 1966, and likewise, with respect to the endangered species as well as with respect to other things. [Sec. 311]

Mr. VAN DEERLIN. Does not the gentleman have full confidence in the President of the United States, as I do? [Sec. 311]

Let us give him the opportunity, where he thinks it is in the national interest, as this amendment provides, to stay provisions of the enforcement section. [Sec. 311]

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Van Deerlin).

The question was taken; and on a division (demanded by Mr. Van Deerlin) there were—ayes 20, noes 25.

Mr. VAN DEERLIN. Mr. Chairman, it occurred to me that that does not add up to 100.

I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The CHAIRMAN. The amendment is not agreed to. The gentleman from California (Mr. Van Deerlin) makes a point of order that a quorum is not present.

Mr. VAN DEERLIN. And, Mr. Chairman, I demand a recorded vote in pursuance of that request.

[Roll No. 611]

Abdnor	Ford, Tenn.	Mottl
Abzug	Frenzel	Murtha
Adams	Frey	Nix
Andrews, N.C.	Fuqua	Nolan
Andrews, N. Dak.	Gaydos	Passman
Ashbrook	Gibbons	Patman, Tex.
Badillo	Goldwater	Patterson, Calif.
Barrett	Green	Pettis
Bedell	Guyer	Peyser
Bergland	Hall	Poage
Bevill	Harsha	Price
Bonker	Hayes, Ind.	Randall
Broomfield	Hays, Ohio	Riegle
Brown, Calif.	Hébert	Risenhoover
Burke, Fla.	Heinz	Rousselot
Burton, Phillip	Helstoski	Roybal
Carney	Henderson	Ryan
Carter	Hightower	St Germain
Chappell	Hinshaw	Santini
Chisholm	Holland	Shipley
Clawson, Del.	Howe	Shuster
Clay	Jones, Ala.	Sisk
Conyers	Kastenmeier	Steelman
Corman	Ketchum	Steiger, Wis.
Cotter	Koch	Stephens
Daniels, N.J.	Landrum	Symms
Danielson	Latta	Taylor, N.C.
Delaney	Lujan	Teague
Dent	McCollister	Thompson
Devine	McDade	Traxler
Dickinson	McDonald	Udall
Diggs	McEwen	Ullman
Eshleman	Madigan	Vanik
Evans, Colo.	Martin	Walsh
Evins, Tenn.	Mathis	Waxman
Fary	Metcalfe	Wiggins
Findley	Meyner	Wilson, C. H.
Flynt	Milford	Wilson, Tex.
Foley	Moorhead, Calif.	Yatron
Ford, Mich.	Moss	Zeferetti

The CHAIRMAN. Does the gentleman make a point of order that a quorum is not present?

Mr. VAN DEERLIN. Mr. Chairman, I do not want a quorum call.

The CHAIRMAN. Pending a rollcall?

Mr. VAN DEERLIN. That is what I want a rollcall.

Mr. FRASER. Mr. Chairman, pending the request for a rollcall, I make a point of order that a quorum is not present.

The CHAIRMAN. Obviously, a quorum is not present.

POINT OF ORDER

Mr. STUDDS. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. STUDDS. Mr. Chairman, I make the point of order that the Chair has already ruled that the amendment has been rejected.

The CHAIRMAN. The gentleman is right in seeking recognition to make a point of order that a quorum is not present.

Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Smith of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 200), and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 313 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. At the time of the quorum call, the Chair had announced the result of a division vote.

PARLIAMENTARY INQUIRY

Mr. LEGGETT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. LEGGETT. Mr. Chairman, is the situation now such that the division vote has been had which struck down the Van Deerlin amendment that gutted the bill and now we are ready for a recorded vote?

The CHAIRMAN. That is not a proper parliamentary inquiry.

RECORDED VOTE

Mr. VAN DEERLIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 128, noes 196, not voting 109, as follows:

[Roll No. 612]

YEAS—128

Anderson, Calif.	de la Garza	Hechler, W. Va.
Anderson, Ill.	Derwinski	Holtzman
Annunzio	Duncan, Tenn.	Horton
Ashley	Eckhardt	Jacobs
Badillo	Erlenborn	Jarman
Baldus	Fascell	Johnson, Pa.
Beard, Tenn.	Fisher	Jones, Okla.
Bennett	Flowers	Jones, Tenn.
Biester	Fraser	Jordan
Bingham	Frenzel	Karth
Brademas	Gibbons	Kastenmeier
Breckinridge	Gilman	Kazen
Brooks	Gonzalez	Keys
Broyhill	Gradison	Krueger
Buchanan	Gude	Landrum
Burgener	Hamilton	Levitas
Burleson, Tex.	Hammerschmidt	Lloyd, Calif.
Casey	Hannaford	Lloyd, Tenn.
Cederberg	Harris	Long, La.
Conable	Hastings	McClory
Cornell	Hawkins	McCloskey
Davis	Hayes, Ind.	McDade

McEwen	O'Brien	Staggers
McHugh	Pepper	Stanton, J. William
Mahon	Perkins	Stanton, James V.
Mann	Pickle	Stephens
Matsunaga	Preyer	Stratton
Melcher	Quie	Symington
Mikva	Railsback	Thone
Mills	Rees	Treen
Mink	Regula	Van Deerlin
Mitchell, N.Y.	Reuss	Whalen
Mollohan	Roberts	White
Moorhead, Pa.	Rostenkowski	Whitten
Morgan	Runnels	Wilson, Bob
Mosher	Scheuer	Winn
Murphy, Ill.	Schroeder	Wolff
Myers, Pa.	Sebelius	Wright
Natcher	Seiberling	Wydler
Nedzi	Sharp	Yates
Nichols	Shriver	Young, Tex.
Nowak	Simon	Zablocki
Obey	Spellman	

NAYS—196

Addabbo	Coughlin	Heckler, Mass.
Alexander	Crane	Hefner
Ambro	D'Amours	Hicks
Andrews, N.C.	Daniel, Dan	Hillis
Archer	Daniel, R. W.	Holland
Armstrong	Dellums	Holt
Aspin	Derrick	Howard
AuCoin	Diggs	Hubbard
Bafalis	Dingell	Hughes
Baucus	Dodd	Hungate
Bauman	Downey, N.Y.	Hutchinson
Beard, R.I.	Downing, Va.	Hyde
Bell	Drinan	Ichord
Biaggi	Duncan, Oreg.	Jeffords
Blanchard	du Pont	Jenrette
Blouin	Early	Johnson, Calif.
Boggs	Edgar	Johnson, Colo.
Boland	Edwards, Ala.	Jones, N.C.
Bolling	Edwards, Calif.	Kasten
Bonker	Eilberg	Kelly
Bowen	Emery	Kemp
Breaux	English	Kindness
Brinkley	Evans, Ind.	Krebs
Brodhead	Fish	LaFalce
Brown, Mich.	Fithian	Lagomarsino
Brown, Ohio	Flood	Leggett
Burke, Calif.	Florio	Lehman
Burke, Mass.	Foley	Lent
Burlison, Mo.	Forsythe	Litton
Burton, John	Fountain	Long, Md.
Burton, Phillip	Giaimo	Lott
Byron	Ginn	McCormack
Carr	Goodling	McFall
Clancy	Grassley	McKay
Clausen, Don H.	Hagedorn	Macdonald
Cleveland	Haley	Madden
Cochran	Hall	Maguire
Cohen	Hanley	Mathis
Collins, Ill.	Hansen	Mazzoli
Collins, Tex.	Harkin	Meeds
Conte	Harrington	Mezvinsky

Michel
 Miller, Calif.
 Miller, Ohio
 Mineta
 Minish
 Mitchell, Md.
 Moakley
 Moffett
 Montgomery
 Moore
 Murphy, N.Y.
 Myers, Ind.
 Oberstar
 O'Hara
 O'Neill
 Ottinger
 Patten, N.J.
 Pattison, N.Y.
 Pike
 Pressler
 Pritchard
 Quillen
 Rangel
 Rhodes
 Richmond

Rinaldo
 Robinson
 Rodino
 Roe
 Rogers
 Roncalio
 Rooney
 Rose
 Rosenthal
 Rousch
 Ruppe
 Russo
 Sarasin
 Sarbanes
 Satterfield
 Schneebeli
 Schulze
 Shuster
 Sikes
 Slack
 Smith, Iowa
 Smith, Nebr.
 Snyder
 Solarz
 Spence

Stark
 Steed
 Steiger, Ariz.
 Steiger, Wis.
 Stokes
 Stuckey
 Studds
 Sullivan
 Talcott
 Taylor, Mo.
 Thornton
 Tsongas
 Vander Jagt
 Vander Veen
 Vigorito
 Waggoner
 Wampler
 Weaver
 Whitehurst
 Wylie
 Young, Alaska
 Young, Fla.
 Young, Ga.

NOT VOTING—109

Abdnor
 Abzug
 Adams
 Andrews, N. Dak.
 Ashbrook
 Barrett
 Bedell
 Bergland
 Bevil
 Broomfield
 Brown, Calif.
 Burke, Fla.
 Butler
 Carney
 Carter
 Chappell
 Chisholm
 Clawson, Del.
 Clay
 Conlan
 Conyers
 Corman
 Cotter
 Daniels, N.J.
 Danielson
 Delaney
 Dent
 Devine
 Dickinson
 Esch
 Eshleman
 Evans, Colo.
 Evins, Tenn.
 Fary
 Fenwick
 Findley
 Flynt

Ford, Mich.
 Ford, Tenn.
 Frey
 Fuqua
 Gaydos
 Goldwater
 Green
 Guyer
 Harsha
 Hays, Ohio
 Hébert
 Heinz
 Helstoski
 Henderson
 Hightower
 Hinshaw
 Howe
 Jones, Ala.
 Ketchum
 Koch
 Latta
 Lujan
 McCollister
 McDonald
 McKinney
 Madigan
 Martin
 Metcalfe
 Meyner
 Milford
 Moorhead, Calif.
 Moss
 Mottl
 Murtha
 Neal
 Nix
 Nolan

Passman
 Patman, Tex.
 Patterson, Calif.
 Pettis
 Peyser
 Poage
 Price
 Randall
 Riegle
 Risenhoover
 Rousselot
 Roybal
 Ryan
 St Germain
 Santini
 Shipley
 Sisk
 Skubitz
 Steelman
 Symms
 Taylor, N.C.
 Teague
 Thompson
 Traxler
 Udall
 Ullman
 Vanik
 Walsh
 Waxman
 Wiggins
 Wilson, C. H.
 Wilson, Tex.
 Wirth
 Yatron
 Zeferetti

The Clerk announced the following pairs.

Messrs. YOUNG of Alaska and KEMP changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mrs. SULLIVAN. Mr. Chairman, I ask unanimous consent to limit debate on this last title, title III, and all amendments to this title to 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

Mrs. SULLIVAN. Mr. Chairman, may I just add this: On the next title we have one amendment, at the end of the bill. At that time I will again ask for a limitation of 10 minutes on the one amendment to be offered.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Eckhardt: On page 65, on line 16 strike the semicolon and add the following: "unless such refusal is pursuant to a right protected by international law. [Sec. 307]"

Mr. ECKHARDT. Mr. Chairman, if you would mandate an act of war to protect a mess of haddock, then you should vote against my amendment. [Sec. 307]

My amendment in no way changes the mandate with respect to fisheries within the 200-mile limit. It only affects the boarding of a vessel where that vessel contends that it is acting under the protection of international law and is so protected. [Sec. 307]

Mr. LEGGETT. Do I understand that the intent of the gentleman's amendment is to condition actions in this bill on no violation of international law? [Sec. 307]

Mr. ECKHARDT. The intent of this amendment is to say that when a vessel is acting under a right extended by international law, it may refuse to be boarded. [Sec. 307]

All I am attempting to do is to prevent the same kind of thing I was attempting to do with the amendment I had on the Sinai bill the other day. [Sec. 307]

I just do not want an act of war to be committed and mandated in order to protect a bunch of haddocks. That is the point. [Sec. 307]

Mr. LEGGETT. If the gentleman will yield further, without answering the gentleman's allegations with respect to the value of haddock, I think we all want to respect international law. [Sec. 307]

With that in mind, we will accept the gentleman's amendment on this side.

Mr. RUPPE. Mr. Chairman, if the gentleman will yield, we accept it on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Eckhardt).

The amendment was agreed to.

The CHAIRMAN. There being no further amendments to title III, the Clerk will read:

The Clerk read as follows:

**TITLE IV—AMENDMENTS TO OTHER LAWS RELATING TO THE
FISHERIES AND MISCELLANEOUS PROVISIONS**

SEC. 401. [Sec. 403] FISHERMEN'S PROTECTIVE ACT AMENDMENTS.

(a) **SEIZURE PROVISION.** [Sec. 403(a)]—Section 2 of the Fishermen's Protective Act of 1967 (68 Stat. 883; 22 U.S.C. 1972) is amended to read as follows:

"Sec. 2. In any case where—

"(1) any vessel of the United States is seized by a foreign country on the basis of rights or claims in territorial waters or the high seas which are not recognized by the United States; or

"(2) any vessel of the United States is seized by a foreign country while such vessel is engaged in fishing in any area of the high seas (and the rights or claims to fisheries conservation and management jurisdiction in such area by such country are recognized by the United States) for a specific stock of fish (including, but not limited to, tuna and any other highly migratory species of fish), and vessels of the United States have previously fished in such area for such stock, and there is no dispute of material facts with respect to the location or activity of such vessel at the time of such seizure, the Secretary of State shall as soon as practicable take action to attend to the welfare of such vessel and its crew while it is held by such country to secure the release of such vessel and crew, and to immediately ascertain the amount of any fine, license, fee, registration fee, or any other direct charge which may be reimbursable under section 3(a) of this Act."

(b) **REIMBURSEMENT PROVISION.**—

(1) [Sec. 403(a)(2)(D)(iii)] Section 3(a) of such Act of 1967 (22 U.S.C. 1973(a)) is amended by inserting immediately before the last sentence thereof the following new sentence: "For purposes of this section, the term 'other direct charge' means any levy, however characterized or computed (including, but not limited to, computation based on the value of a vessel or the value of fish or other property on board a vessel), which is imposed in addition to any fine, license fee, or registration fee."

(2) [Sec. 403(b)] The amendment made by paragraph (1) of this subsection shall apply with respect to seizures of vessels of the United States occurring on or after December 31, 1974.

SEC. 402. [Sec. 402(b)] AMENDMENTS TO THE ACT OF MAY 20, 1964.

(a) **AMENDMENTS.**—The Act of May 20, 1964 (78 Stat. 194-196; 16 U.S.C. 1081-1086) is amended—

(1) by amending the first section to read as follows:

"That (a) it is unlawful for any vessel, except a vessel of the United States, or for any master or other person in charge of such a vessel, to engage in fishing—

"(1) within the territorial waters of the United States, its territories and possessions, and the Commonwealth of Puerto Rico;

"(2) within the fisheries conservation and management zone established by title I of the Marine Fisheries Conservation Act of 1975 unless such fishing is authorized under a permit issued pursuant to section 201 of such Act;

"(3) for any anadromous species beyond such fisheries conservation and management zone for which a fishery management plan has been implemented under title III of such Act of 1975 unless such fishing is authorized under a permit issued pursuant to section 201 of such Act of 1975; and

"(4) for any Continental Shelf fishery resource.

"(b) Notwithstanding any other provision of law, the Secretary of commerce, with the concurrence of the Secretary of State, may permit a vessel, other than a vessel of the United States, owned or operated by an international organization of which the United States is a member, to engage in fishery research within the territorial waters of the United States or within the fisheries conservation and management zone established by title I of the Marine Fisheries Conservation Act of 1975 or for Continental Shelf fisheries resources and to land its catch in a port of the United States in accordance with such conditions as the Secretary may prescribe whenever they determine such action is in the national interest."; and

(2) by amending section 5(c) by striking out "fisheries" and inserting in lieu thereof "fishing".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect July 1, 1976.

SEC. 403. ATLANTIC TUNAS CONVENTION ACT AMENDMENT.

(a) AMENDMENT. [Sec. 405(a)]—Section 2(4) of the Atlantic Tunas Convention Act of 1976 (Public Law 94-70) is amended by striking out "The entire zone established by the United States under the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091-1094)," and inserting in lieu thereof "the fisheries conservation and management zone established by title I of the Marine Fisheries Conservation Act of 1975,".

(b) EFFECTIVE DATE. [Sec. 405(b)]—The amendment made by subsection (a) shall take effect July 1, 1976.

SEC. 404. MARINE MAMMAL PROTECTION ACT AMENDMENT.

(a) AMENDMENT. [Sec. 404(a)]—Section 3(15)(B) of the Marine Mammal Protection Act of 1972 (86 Stat. 1029; 16 U.S.C. 1362(15)(B)) is amended by striking out "the fisheries zone established pursuant to the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091-1094)," and inserting in lieu thereof "the fisheries conservation and management zone established by title I of the Marine Fisheries Conservation Act of 1975,".

(b) EFFECTIVE DATE. [Sec. 404(b)]—The amendment made by subsection (a) shall take effect July 1, 1976.

SEC. 405. [Sec. 406] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act (other than section 36(d)(3)).

SEC. 406. [Section not Incorporated into Public Law 94-265] SEVERABILITY.

The provisions of this Act shall be severable and if any part of the Act is declared unconstitutional or the applicability thereof is held invalid, the constitutionality of the remainder and the applicability thereof shall not be affected thereby.

Amend the title so as to read: "A bill to provide for the conservation and management of the fisheries, and for other purposes."

Mrs. SULLIVAN. Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

Mrs. SULLIVAN. Mr. Chairman, I move that all debate on the pending amendment to title IV and all amendments thereto be limited to 10 minutes.

The CHAIRMAN. The Chair would prefer to wait until the amendment has been offered.

AMENDMENT OFFERED BY MR. McCLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCloskey: On page 77 at line 18 add a new section as follows:

"SEC. 407. The United States hereby consents to the jurisdiction of the International Court of Justice with respect to any claim or controversy arising as a result of the enactment or the implementation of this Act.

The CHAIRMAN. Does the gentlewoman from Missouri (Mrs. Sullivan) move to limit debate on this title and all amendments thereto to 10 minutes?

Mrs. SULLIVAN. I do, Mr. Chairman.

The CHAIRMAN. The question is on the motion offered by the gentleman from Missouri (Mrs. Sullivan).

The motion was agreed to.

Mr. McCLOSKEY. Mr. Chairman, may I ask if I will have 5 minutes to explain my amendment?

The CHAIRMAN. The gentleman from California is correct, he will have 5 minutes.

Mr. McCLOSKEY. Mr. Chairman, I retain a hope that the Committee will accept this amendment in the same spirit that it accepted the last amendment.

The amendment only does one thing, it agrees that any dispute that arises out of the passage of this bill will be subject to decision by the International Court of Justice.

Let me say why I think it is extremely important when this House enacts this bill, as it will, that this amendment be added.

First, the proponents of the bill have urged today that this bill is in accord with international law or at least it is not in violation of international law. Second, that it is not in violation of any of our treaties. The opponents objected to that. But regardless of who is right or wrong on that issue the proponents also concede that we seek the same goal, an international treaty which recognizes each nation having a 200-mile fishing zone [secs. 2(c)(5); 101; 401]. Both sides to this debate agree that we must continue to seek international treaties to protect those of our fisheries which are not protected within the 200 miles. [Secs. 2(b)(2); 2(c)(2); 401]

You will note that within the bill the proponents of the bill have a provision that it is only an interim measure, we are extending this on an interim basis the jurisdiction of the United States over certain ocean areas. [Sec. 401] And not are we only doing that on an interim basis but that if a treaty is adopted that that treaty will supersede this bill which we enact today. [Sec. 401]

The proponents of the bill are rightfully concerned that if we do not adopt a treaty by 1977, if a treaty is not adopted and ratified until 1980, there might not be any fishing to protect. [Sec. 2]

So that there is this agreement between both proponents and opponents of this bill that we seek both international law and respect for international law along with the interim extension of our jurisdiction to protect it in the interim. [Secs. 2(c)(5); 401]

Going back to the history of the protection of fisheries, we must look at the recent ICNAF agreement that was reached on September 28, which authorizes a 23 percent decrease in the tonnage. Look back to 1958 when the United States was a signatory to the four international conventions. We have taken the lead in the protection of whales and of all creatures of the sea and in seeking international agreement and international law.

In 1958 we and the Russians signed the Convention of the High Seas. We agreed that the term "high seas" meant all parts of the sea, not including the territorial seas, and with the ocean open to all nations where feasible.

Now when we go to the 200-mile zone [Sec. 101] conflicts will develop between the Russians and us with respect to the action we have taken.

But also look at the treaty on Fish and Conservation of Living Resources Convention. There in 1958 we agreed that in order to settle disputes, nations that are concerned with the conservation of fisheries would refer those disputes to five representatives for decision by judicial action.

I think it is entirely consistent with the motivation of the proponents of this bill and with the desire and the historic leadership of the United States to have the international law be respected and to recognize that only by international treaty and by judicial decision can we assure protection for all of the endangered species of the seas and the protection of our fishing zones [Secs. 2(c)(5); 401], and that is through judicial decisions by the International Court of Justice.

Mr. Chairman, I submit the amendment should be agreed to on that basis.

Mr. LEGGETT. Mr. Chairman, I rise in opposition to the amendment. I agree with the gentleman's contention that international disputes should be decided by negotiation and by justice rather than by force of arms and the U.S. Coast Guard [Sec. 311]; but to put a provision in this bill that every single dispute will be subject to the International Court, a court which has decided, I think, a total of three cases in the last 10 years, means we are going to be on a docket for a long, long period of time before we solve many of these problems. Many of the problems can be solved by negotiation, many by bilaterals, many by treaty, many by arbitration. [Sec. 202] Certainly it would also cover the situation between citizens of the United States and citizens claiming against the Government. [Sec. 202] Why should the International Court be in on that at all?

Mr. Chairman, particularly I want to thank and compliment our staff who drafted this bill.

Ernie Carrado, chief counsel, and particularly the bill authors, Ned Everett and Dick Sheroud.

They were magnificent, as were the members of my subcommittee; members of the full committee and the committee chairman, Lee Sullivan.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Washington (Mr. Pritchard).

Mr. PRITCHARD. Mr. Chairman, I rise to oppose the amendment offered by the gentleman from California. I think many of us would be inclined to go along, but when we think of turning over arbitrarily all of these decisions to the World Court at this point and at this time in the bill, I do not think it would be a wise move. This is one of the purposes of the law of the seas—to set up a dispute-settlement process. I think that is something that has got to be done, but for us to arbitrarily say we must do this is not wise. We can do this. We can turn to the World Court anytime we want to, particularly if the other party is willing to go. But I think for us to write it in that we must go to the World Court at this time would be a mistake.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Massachusetts (Mr. Studds).

Mr. STUDDS. Mr. Chairman, the amendment offered by the gentleman from California raises grave and highly serious questions con-

cerning the international policy of this Nation. Whether or not we would wish to submit ourselves to the International Court of Justice, there are highly divergent and highly emotional opinions in the House on this subject. I suspect my own might be closer to that of the gentleman from California than many others.

However, this kind of overriding policy matter should not be raised in this bill at this time.

Mr. Chairman, I urge defeat of the amendment offered by the gentleman from California.

Mr. BOB WILSON. Mr. Chairman, I am opposed to this bill. If passed, it would hinder, rather than help our fishing industry and could destroy any chance to get the rule of law applied to the seas of the world.

The United States has been engaged for a number of years in the Law of the Sea Conference, trying to work out an equitable solution between the countries of the world that border on the sea and use them to contribute to their national food supplies.

Until now, the United States has always maintained a position against unilaterally—and I repeat, unilaterally—imposing a 200-mile limit, and has vigorously protested actions by other sea-bordering countries in setting up their own 200-mile limits. If we go against our past record and impose such a limit [Sec. 101], other countries will be encouraged to follow suit. The result would be chaos for the fishing industry of the United States.

For example, our tuna industry catches only about 10 percent of its total tuna take within 200 miles of our own shores, but takes almost 90 percent within 200 miles of other shores. If we impose a 200-mile limit and other countries follow our example, it would virtually destroy the tuna industry. [Sec. 101]

The tuna appears around the world. Albacore migrate from the coast of Japan to the west coast of North America each year. Bigeye tuna migrate across the Pacific, southern bluefin tuna are distributed from the South Atlantic through the Pacific and Indian Oceans, northern bluefins move from the east coast of the United States to northwestern Europe and down to Brazil.

All species of tuna move around constantly, following food supplies, and it is obvious that as a species, the tuna has no home. It ranges over vast expanses the world's oceans, and appears at a wide range of latitudes. If we are to depend on the seas for more food, we must manage this renewable crop with care. A series of jealously guarded 200-mile zones would make any intelligent management program virtually impossible, and would put our tuna industry out of business.

We are already penalizing our tuna fishermen enough by enforcing an international agreement which the other signatories are not. By enforcing a quota system on the taking of yellowfin tuna, we are telling our fishermen that, while other countries can either catch yellowfin or not as they choose, our fishermen cannot. This is an example of a grossly unfair situation being allowed to exist by our Government.

And what of other nations that choose to violate this proposed 200-mile limit? [Sec. 101] Are we, by our actions, to raise the specter of confrontations on the high seas between our patrol boats and the

fishing fleets of other countries. [Sec. 101] We have already seen what can happen if such confrontations do occur. In resisting the claims of other countries to a 200-mile limit, our fishermen have been harassed, imprisoned, beaten, their boats seized, their cargoes confiscated and severe fines levied.

This is a bad bill. It would detrimentally affect our fishing industry rather than promote its interests. It would go against the principles of law and would cast the United States in the role of vigilantes, taking the law into our own hands. It would virtually force international confrontation on the high seas. It would encourage other seabordering countries—some of which are already considering imposing their own 200-mile limits—to follow our example. It would strain already delicate relations between our country and the U.S.S.R. and could badly damage our relations with Japan.

Instead of promoting conservation of our sea resources, as it claims it will do, it will eliminate any incentive on the part of the fishing countries of the world to voluntarily engage in such conservation, as the seas beyond 200 miles will be considered open and the fish free for the taking. [Sec. 101]

What is needed is international agreement and cooperation. We are trying to get some rule of law applied to the seas, that all sea-using nations can agree to and abide by. A law that will work for the benefit of all; that would allow for the intelligent harvesting of sea resources; that will promote international cooperation.

What we do not need is a heavyhanded, unilateral imposition of a 200-mile limit. [Sec. 101] I suggest that we continue to pursue a mutually agreeable international pact designed to protect and preserve our fishery resources, while allowing our fishermen the opportunity to pursue their trades. I urge my colleagues on both sides of the aisle to vote "No" to a bill that would be of limited use and could jeopardize our international reputation.

Mr. BINGHAM. I just want to say that I think the sponsors of this bill have done a remarkable job in bringing forth one of the worst bills that have been brought before the House in this session. When we have people like the gentleman from California (Mr. McCloskey) the gentleman from California (Mr. Bob Wilson) the gentleman from New York (Mr. Stratton) and the gentleman from Minnesota (Mr. Fraser) against a bill, they have really done something.

Mr. O'NEILL. Mr. Chairman, I rise in support of H.R. 200, the Marine Fisheries Conservation Act of 1975. This measure is the result of long, thoughtful, and thorough deliberations by the Committee on Merchant Marine and Fisheries. Under the able leadership of the gentlewoman from Missouri and the gentleman from California (Mr. Leggett) that committee has formulated a sensible policy to meet a sensitive problem. I want to pay special tribute to my colleague from Massachusetts (Mr. Studds) who has, from the day he came to Congress, been pressing for a revision of U.S. fisheries policy.

H.R. 200, which enjoys the virtually unanimous support of the members of the Committee on Merchant Marine and Fisheries, is in its most controversial aspect, a legitimate attempt to meet what is hopefully a short-term problem. We all would have preferred a consensus at the Law of the Sea Conference to a legislative initiative

extending the exclusive fisheries zone to 200 miles. But Congress could not stand back and watch the depletion of our fisheries resources forever. When it became clear that the latest session of the Law of the Sea Conference would not successfully contend with the problems in this area, it became incumbent on Congress to act expeditiously. [Sec. 2]

The committee was well aware of the situation. Based on its long record of expertise in these matters, it was able to report H.R. 200 soon after the latest session of the Law of the Sea Conference failed to reach an agreement. Should the next session of the Conference meet with more success and an agreement be adopted by this Nation, it would supersede H.R. 200. In the interim, this bill will protect against the depletion of our stocks. [Sec. 401]

However, H.R. 200 is not just a stopgap measure. It promotes a national policy of marine conservation and planning keyed to regional interests. [Secs. 301; 302; 303; 304; 305] The seven regional councils to be established under this legislation will, under supervision by the Secretary of Commerce, promulgate management plans to conserve and protect fisheries. [Secs. 302; 303; 304; 305]

I urge my colleagues to join with me in voting for H.R. 200.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCloskey).

The question was taken; and the Chairman announced that the yeas appeared to have it.

Mr. McCLOSKEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments? If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Smith of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 200) to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes, pursuant to House Resolution 760, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.
The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 208,
nays 101, answered “present” 1, not voting 123, as follows:

[Roll No. 613]

YEAS—208

Addabbo	Eilberg	Lott
Ambro	Emery	McCormack
Andrews, N.C.	English	McDade
Archer	Evans, Ind.	McFall
Armstrong	Fish	McKay
Aspin	Fithian	McKinney
AuCoin	Flood	Macdonald
Bafalis	Florio	Maguire
Baucus	Flowers	Mathis
Bauman	Foley	Mazzoli
Beard, R.I.	Forsythe	Meeds
Biaggi	Fountain	Melcher
Blanchard	Ginn	Mezvinsky
Boggs	Goodling	Michel
Boland	Grassley	Miller, Calif.
Bolling	Hagedorn	Miller, Ohio
Bonker	Hammerschmidt	Mineta
Bowen	Hanley	Minish
Breaux	Hansen	Mitchell, Md.
Brinkley	Harrington	Mitchell, N.Y.
Brodhead	Hechler, W. Va.	Moakley
Brown, Mich.	Heckler, Mass.	Moffett
Brown, Ohio	Hefner	Montgomery
Broyhill	Hicks	Moore
Burke, Mass.	Hillis	Moorhead, Pa.
Burleson, Tex.	Holland	Myers, Ind.
Burlison, Mo.	Holt	Nedzi
Burton, John	Howard	Nowak
Byron	Hubbard	Oberstar
Carr	Hughes	O'Hara
Casey	Hutchinson	O'Neill
Cederberg	Hyde	Ottinger
Clausen, Don H.	Ichord	Patten, N.J.
Cleveland	Jarman	Pattison, N.Y.
Cochran	Jeffords	Perkins
Cohen	Jenrette	Pickle
Collins, Ill.	Johnson, Calif.	Pike
Collins, Tex.	Johnson, Colo.	Pressler
Conte	Johnson, Pa.	Pritchard
Cornell	Jones, N.C.	Quillen
Coughlin	Jones, Tenn.	Rhodes
Crane	Kasten	Richmond
D'Amours	Kelly	Rinaldo
Daniel, Dan	Kemp	Robinson
Davis	Keys	Rodino
Dingell	Kindness	Roe
Dodd	Krebs	Rogers
Downey, N.Y.	Lagomarsino	Roncalio
Downing, Va.	Landrum	Rooney
Drinan	Leggett	Rose
Duncan, Oreg.	Lehman	Rosenthal
du Pont	Lent	Roush
Early	Levitas	Runnels
Edgar	Litton	Ruppe
Edwards, Ala.	Lloyd, Tenn.	Russo
Edwards, Calif.	Long, La.	Sarasin

Sarbanes
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Sikes
Slack
Snyder
Solarz
Spence
Staggers
Stark

Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Thone
Treen
Tsongas
Vander Jagt

Vander Veen
Waggonner
Wampler
Weaver
Whitehurst
Wirth
Wolff
Wydler
Wyllie
Young, Alaska
Young, Fla.
Young, Ga.

NAYS—101

Alexander
Anderson, Calif.
Anderson, Ill.
Annunzio
Ashley
Badillo
Baldus
Beard, Tenn.
Bennett
Biester
Bingham
Blouin
Brademas
Breckinridge
Brooks
Buchanan
Burgener
Burke, Calif.
Burton, Phillip
Conable
Daniel, R. W.
de la Garza
Dellums
Derrick
Diggs
Eckhardt
Erlenborn
Fascell
Fisher
Fraser
Frenzel
Gibbons
Gilman
Gonzalez

Gradison
Gude
Haley
Hall
Hamilton
Hannaford
Harkin
Harris
Hastings
Hawkins
Holtzman
Jacobs
Jones, Okla.
Karth
Kastenmeier
Kazen
Krueger
LaFalce
Lloyd, Calif.
McClory
McCloskey
McEwen
McHugh
Mahon
Mann
Matsunaga
Mikva
Mills
Mink
Mollohan
Morgan
Mosher
Murphy, Ill.
Myers, Pa.

Natcher
Nichols
Obey
O'Brien
Pepper
Preyer
Quie
Railsback
Rangel
Regula
Reuss
Roberts
Rostenkowski
Scheuer
Schroeder
Seiberling
Sharp
Simon
Smith, Iowa
Spellman
Stanton, J. William
Stanton, James V.
Steed
Stratton
Van Deerlin
Vigorito
Whalen
White
Whitten
Wright
Yates
Young, Tex.
Zablocki

ANSWERED "PRESENT"—1

Wilson, Bob

NOT VOTING—123

Abdnor
Abzug
Adams
Andrews, N. Dak.
Ashbrook
Barrett
Bedell
Bell

Bergland
Bevill
Broomfield
Brown, Calif.
Burke, Fla.
Butler
Carney
Carter

Chappell
Chisholm
Clancy
Clawson, Del.
Clay
Conlan
Conyers
Corman

Cotter	Hightower	Poage
Daniels, N.J.	Hinsaw	Price
Danielson	Horton	Randall
Delaney	Howe	Rees
Dent	Hungate	Riegle
Derwinski	Jones, Ala.	Risenhoover
Devine	Jordan	Rousselot
Dickinson	Ketchum	Roybal
Duncan, Tenn.	Koch	Ryan
Esch	Latta	St Germain
Eshleman	Long, Md.	Santini
Evans, Colo.	Lujan	Shipley
Erins, Tenn.	McCollister	Sisk
Fary	McDonald	Skubitz
Fenwick	Madden	Smith, Nebr.
Findley	Madigan	Steelman
Flynt	Martin	Symms
Ford, Mich.	Metcalfe	Taylor, N.C.
Ford, Tenn.	Meyner	Teague
Frey	Milford	Thompson
Fuqua	Moorhead, Calif.	Thornton
Gaydos	Moss	Traxler
Gaiamo	Mottl	Udall
Goldwater	Murphy, N.Y.	Ullman
Green	Murtha	Vanik
Guyer	Neal	Walsh
Harsha	Nix	Waxman
Hayes, Ind.	Nolan	Wiggins
Hays, Ohio	Passman	Wilson, C. H.
Hébert	Patman, Tex.	Wilson, Tex.
Heinz	Patterson, Calif.	Winn
Helstoski	Pettis	Yatron
Henderson	Peyser	Zeferetti

The Clerk announced the following pairs :

On this vote :

Mr. Hays of Ohio for, with Mr. Patman against.
 Mr. Hébert for, with Mrs. Meyner against.
 Mr. Passman for, with Mr. Nix against.
 Mr. Adams for, with Mr. Santini against.
 Mr. Mottl for, with Mr. Waxman against.
 Mr. Koch for, with Mr. Hayes of Indiana against.
 Mr. Green for, with Mr. Moss against.
 Mr. St Germain for, with Mr. Bob Wilson against.
 Mr. Zeferetti for, with Mr. Fary against.
 Mr. Dickinson for, with Mr. Horton against.
 Mr. Skubitz for, with Mrs. Fenwick against.
 Mr. Butler for, with Mrs. Smith of Nebraska against.
 Mr. Murphy of New York for, with Mr. Bevill against.
 Mr. Dent for, with Mr. Price against.
 Mr. Dominick V. Daniels for, with Mr. Conyers against.

Until further notice :

Mr. Fuqua with Mr. Risenhoover.
 Mr. Gaiamo with Mr. Ryan.
 Ms. Abzug with Mr. Corman.
 Mr. Barrett with Mr. Teague.
 Mr. Nolan with Mr. Sisk.
 Mr. Riegle with Mr. Charles H. Wilson of California.
 Mr. Shipley with Mr. Udall.
 Mr. Taylor of North Carolina with Mr. Evans of Colorado.
 Mr. Thompson with Mr. Metcalfe.
 Mr. Delaney with Mr. Chappell.
 Mrs. Chisholm with Mr. Brown of California.
 Mr. Henderson with Mr. Hungate.
 Mr. Murtha with Mr. Clay.

Mr. Vanik with Mr. Danielson.
 Mr. Yatron with Mr. Randall.
 Mr. Cotter with Mr. Hightower.
 Mr. Carney with Mr. Long of Maryland.
 Mr. Ford of Michigan with Miss Jordan.
 Mr. Gaydos with Mr. Howe.
 Mr. Helstoski with Mr. Rees.
 Mr. Uilman with Mr. Milford.
 Mr. Bedell with Mr. Madden.
 Mr. Evins of Tennessee with Mr. Roybal.
 Mr. Jones of Alabama with Mr. Traxler.
 Mr. Thornton with Mr. Charles Wilson of Texas.
 Mr. Abdnor with Mr. Bell.
 Mr. Andrews of North Dakota with Mr. Burke of Florida.
 Mr. Bergland with Mr. Carter.
 Mr. Duncan of Tennessee with Mr. Ashbrook.
 Mr. Broomfield with Mr. Clancy.
 Mr. Del Clawson with Mr. Conlan.
 Mr. Devine with Mr. Derwinski.
 Mr. Goldwater with Mr. Esch.
 Mr. Guyer with Mr. Eshleman.
 Mr. Harsha with Mr. Findley.
 Mr. Frey with Mr. Ford of Tennessee.
 Mr. Hinshaw with Mr. Heinz.
 Mr. Ketchum with Mr. Lujan.
 Mr. Latta with Mr. Madigan.
 Mr. McDonald of Georgia with Mr. Martin.
 Mr. Peyser with Mr. McCollister.
 Mr. Steelman with Mr. Moorhead of California.
 Mr. Symms with Mr. Patterson of California.
 Mr. Walsh with Mrs. Pettis.
 Mr. Rousselot with Mr. Winn.

Messrs. BOB WILSON and NICHOLS changed their vote from "yea" to "nay."

Mr. BOB WILSON. Mr. Speaker, I have a live pair with the gentleman from Rhode Island (Mr. ST GERMAIN). If he were present he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to provide for the conservation and management of the fisheries, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 200, the bill just passed.

The SPEAKER. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

OCTOBER 7, 1975

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 760 and ask for its immediate consideration. The clerk read the resolution as follows:

H. RES. 760

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 200) to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI, and against section 306 [Secs. 204(b) (10) ; 304(d)] of said substitute for failure to comply with the provisions of clause 5, rule XXI, are hereby waived. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

MR. MOAKLEY. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. Lott), pending which I yield myself such time as I may consume.

Mr. Speaker, this is the rule making in order consideration of H.R. 200, a bill to protect and control fishing in waters off the U.S. coast.

This is an open rule providing 2 hours of general debate. It provides for the committee substitute to be read, for purposes of amendment, as an original bill. This is noncontroversial since no waiver would have been required if the committee had reported a clean bill. This waiver simply enables the committee to call up the bill under the number H.R. 200, for which the committee has an understandable sentimental attachment.

It was also suggested that section 306 [Secs. 204(b) (10) ; 304(d)] could be construed as an appropriation and we are proposing a waiver for that section only.

H.R. 200 was reported on August 20 by the Committee on Merchant Marine and Fisheries. At that time, sequential referral was requested by the Committee on International Relations.

It was not found that the committee's legislative jurisdiction warranted this procedure. Nevertheless, the Committee on Rules has delayed consideration of the requested rule for over a month to enable that committee to study H.R. 200. We also scheduled 2 days of consideration on the rule and took testimony from interested members of both committees.

It is our belief that the rule before us will enable a full and fair discussion of the bill and I urge adoption of the resolution.

MR. LOTT. Mr. Speaker, House Resolution 760, the rule presently before us, provides for the House to consider H.R. 200, the Marine Fisheries Conservation Act of 1975. As outlined by the gentleman from Massachusetts, the rule would allow 2 hours of general debate and would make in order the substitute recommended by the Committee on Merchant Marine and Fisheries as an original bill for the purpose of amendment under the 5-minute rule. Other terms of this rule would

permit the substitute to be read by titles instead of by sections and all points of order against said substitute for failure to comply with clause 7, rule XVI, relating to germane amendments, and against section 306 [Secs. 204(b)(10); 304(d)] of the substitute for failure to comply with clause 5, rule XXI, dealing with appropriations by a legislative committee, would be waived.

With respect to the second waiver of points of order, section 306 [Secs. 204(b)(10); 304(d)] of the substitute proposes to establish a separate account in the Treasury into which all license fees imposed under a fishery management plan for the privilege of fishing are collected. The reimbursement of certain owners or operators of a U.S. fishing vessel from this account is permitted by section 306 without prior appropriation. [Secs. 204(b)(10); 304(d)]

The purpose of H.R. 200 is two-fold; First, to extend on an interim basis the exclusive fisheries zone of the United States from 12 to 200 miles [Sec. 101] effective July —, 1976 [Sec. 104]; and second, to provide for a comprehensive fishery management program with the creation of seven regional marine councils to assist the Secretary of Commerce in developing regional management plans. [Secs. 301; 302; 303; 304; 305]

Provisions of the bill would give preferential rights for U.S. fishermen within the zone [Sec. 201], with excess stocks to be shared with foreign nations [Sec. 201(d)] licensed by the Federal Government. [Sec. 204(d)(10)] The Secretary of State is required within 90 days of enactment to commence negotiations with each foreign nation off whose shores U.S. vessels are engaged in fishing within 200 miles off that Nation's coast. [Sec. 202(a)] The underlying purpose of this provision, of course, would be to allow U.S. vessels to continue fishing within the 200-mile zone of such nations. [Sec. 202(a)(4)] In this connection, any international fishery agreement, other than a treaty, would take effect 60 days after submission to both House of Congress, provided neither House adopts a resolution of disapproval. [Secs. 202(a); 202(c); 203]

Finally, this legislation would provide for the embargoing of seafood imports from foreign countries which refuse to grant equitable access to U.S. fishermen with respect to waters they have fished historically. [Sec. 205]

The cost to the Federal Government, if this bill is enacted, is summarized in the following chart [Sec. 406].

[In thousands of dollars]

Departments and programs	Fiscal year 1976	1976 transition period, July 1 to Sept. 30	Fiscal year—				
			1977	1978	1979	1980	1981
Transportation (Coast Guard):							
Procurement.....	40,914	0	11,240	110,000	110,000	0	0
Start-up costs.....	3,520	0	3,850	1,650	1,980	0	0
Operating costs.....	7,432	11,148	29,541	36,526	43,440	43,440	43,440
Subtotal.....	51,866	11,148	44,631	148,176	155,420	43,440	43,440
Commerce: Fisheries management plan, operation of 7 regional councils, planning enforcement, research and statistics activities.....	4,000	2,000	21,000	25,000	30,000	35,000	40,000
State.....	0	0	0	0	0	0	0
Total.....	55,866	13,148	65,631	173,176	185,420	78,440	83,440

While I am aware of some amendments that may be offered to this legislation, it is an overall good bill and constitutes a proposal I have supported since becoming a Member of this body in 1973. For years the Department of State has urged Congress to delay the passage of a measure extending our exclusive fisheries jurisdiction to 200 miles until after a resolution of this question by the Law of the Sea Conference. The State Department is still asking us to delay, and the Conference is no closer to deciding the issue today than it was when it began consideration of the question.

The time for action is upon us. Foreign fishing fleets working in waters off our shores have literally decimated the populations of some fish species, leaving them commercially extinct, and have placed other species in imminent danger of being depleted. The crisis is real, and I refuse to take a passive approach to the problem. It is evident that the international negotiation process will proceed for many years to come, very likely long after it is too late to try and save our remaining fishery resources. [Sec. 2]

Mr. Speaker, this legislation has the sponsorship of 147 Members of the House, not to mention the support of commercial and recreational fishermen, as well as conservationists. Its passage and enactment are vital to the preservation of our Nation's fishing industry and to the perpetuation of fish as a renewable resource [Sec. 2] I strongly urge the adoption of this rule and the ultimate passage of H.R. 200.

MR. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. Van Deerlin).

MR. VAN DEERLIN. Mr. Speaker, I was quite surprised a moment ago to learn about delays this bill had encountered in the Committee on International Relations.

It seems to me that this legislation has moved to the floor with almost slippery speed. But I do think there is an opportunity here, at the time the rule is being taken up, to consider if this is really the direction in which we want to move.

I am getting just a little weary of being asked to make foreign policy here on the floor of the House of Representatives. We have had a long series of unhappy votes over aid to Turkey, and both last week and this week we have been wrangling over the proper approach to negotiations with respect to the Panama Canal.

We are now getting into a subject of great sophistication and great complexity of international law, in regard to the fishing rights of major nations and many smaller nations around the world. We are being asked to make the United States the first major nation in the world to break from the time-honored 12-mile limit, and push out to 200 miles. [Sec. 101]

I can tell Members that the tuna fishermen I have the privilege of representing in San Diego County will probably be displaced entirely if legislation like this is passed. It will not be possible to go on bringing the tuna catch to the United States and getting it canned here, because that operation will simply remain overseas. As a result, some 26,000 jobs could well go by the boards.

There are two canneries on the Island of Samoa. If they are no longer able to operate with economic feasibility, they will simply go out of business, and the entire industry of the Island of Samoa will be on the rocks.

I urge Members—and I will urge you by a rollecall vote shortly—to determine whether that is the direction we want to go at this time.

Let us give the International Law of the Sea Convention the opportunity to act when it meets in New York in a very few months on this very complex subject.

MR. ZABLOCKI. Mr. Speaker, I want to associate myself with the remarks that the gentleman from California (Mr. Van Deerlin) has just made.

This rule also waives two points of order, does it not, because there is an appropriation in this legislative authorization bill. [Sec. 406] Is that true?

MR. VAN DEERLIN. Mr. Speaker, let me say to the gentleman from Wisconsin that I am not the expert on that phase of the problem before us.

MR. ZABLOCKI. Mr. Speaker, maybe the Committee on Rules can advise us what the two waivers provide for.

MR. MOAKLEY. Mr. Speaker, if the gentleman will yield, it waives the rule prohibiting appropriations in a legislative measure [Sec. 406], and also in waives the germaneness provision for the committee substitute.

MR. ZABLOCKI. In the opinion of the gentleman from Wisconsin that is sufficient reason to vote against the rule.

MR. VAN DEERLIN. I was prepared to go that route even without the objection raised by the gentleman from Wisconsin.

MR. ECKHARDT. Mr. Speaker, I am most concerned about the question of sequential referral. It passes all understanding how this bill is considered not to be a matter that should also be considered by the Committee on International Relations. Actually the bill tampers with many international agreements and I think violates at least two treaties. The first is the Law of the Sea Convention on the high seas which actually constitutes international law. It is not disagreed with by any nation and all of the nations engaged in any substantial way in fishing in these waters from 12 to 200 miles off our coast and other international waters are, I believe, signatories of this convention including the United States, of course. [Sec. 101]

In article 2 of that convention it is stated:

The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is exercised under the conditions laid down by these articles and by the other rules of international law. It comprises, *inter alia*, both for coastal and non-coastal States:

First, freedom of navigation; second, freedom of fishing; and other provisions that are not appropriate.

Also in the Law of the Sea Convention on Fishing and Conservation of the Living Resources of the High Seas, of which this Nation is a contracting party, and which is in the nature of a treaty ratified by the Senate, it is provided in article 7 that signatories shall not institute measures that discriminate in form or in fact against foreign fishermen. [Sec. 201] In the bill itself in title I on U.S. Fisheries, Conservation, and Management Zone, it is provided that the 9-mile contiguous

zone is extended to 200 miles, and that the United States has the same jurisdiction as it exercises in the territorial seas, with the sole exception of fishery research. [Sec. 101] All previous foreign fishing rights are rendered void and must be renegotiated within the framework established by the bill.

The bill then contains the requirements for onboard observers and reimbursement of the United States for the cost of such observations within this 200-mile limit. [Secs. 201; 204(b) (10)]

This is all direct violation of the treaty provisions that I have quoted.

Mr. BENNETT. Mr. Speaker, I am opposed to the rule on this bill for a number of reasons.

A large shrimping fleet is in my district, both on Amelia Island and in the Jacksonville area. Those are people who will be hurt the most by this bill, because most of the shrimp taken by them is taken off the Coast of Mexico and in other South and Central American areas and we can expect Mexico and the other countries to retaliate. The entire shrimp crop they rely on would be wiped out by such retaliation.

More important nationally is the national defense aspect. My position on the Advisory Board of this Conference on the Law of the Sea helps me to know that. I believe we have a good chance of working out a treaty. The first thing of importance is whether it will protect us in the way of national defense. The enactment of this bill would make more difficult the agreement on a treaty which would protect import national defense interests.

Those Members who are bird lovers and wildlife lovers like myself may consider that the treaty is the only known way to protect the whale in the Pacific Ocean. Maybe that means nothing to the Members, but it does to me. I think if we pass this bill, we can kiss goodbye to any possibility of Japan or any other nation in the world agreeing with us on protecting those whales. In the context of an overall treaty for law of the sea the whales have a chance to survive and not be made extinct. To me, and I think to many House Members, that is not an unimportant reason for the rejection of this bill.

Mr. LEGGETT. Mr. Speaker, the bill that we are about to debate, I suspect now on Thursday, is one of the really creative pieces of legislation that we have had in this House. We have taken a great number of bills and we have synthesized a truly fine product. I appreciate the fact that my colleague, the gentleman from California (Mr. Van Deerlin) is not in a position to support this bill, but I would point out the fact that there are four major separate provisions in this bill to help the tuna people out:

One, if they do not relate to us in a proper agreement down in that area of Ecuador, Peru, et cetera, we have got boycott provisions in this legislation. [Sec. 205]

Two, there are some provisions where one makes payments under the existing Fishermen's Protection Act that he cannot get paid back. This bill takes care of that kind of reimbursement. [Sec. 403]

Three, right now if one goes down to Ecuador and pays a license fee, there is no way he can get that license fee reimbursed. There are

provisions in this bill to allow for that being transferred. [Secs. 204 (b) (10); 304(d)]

Also in this legislation we except all activity for migratory fish, and tuna is defined as a migratory fish, so I believe we take care of that situation. [Secs. 2(b) (2); 103]

With respect to the gulf, we have had some confusion as to whether or not the gulf really wanted to be in this bill, and the shrimpers presented a separate problem. We have thoroughly gone over that, and at one time we excluded the shrimpers from the gulf area. The gulf determined that they wanted to come back in under the bill, so we brought them back in.

With respect to the ideas that the gentleman from Texas (Mr. Eckhardt) has brought up, international law and agreements and things like that, we thoroughly discussed this before the Foreign Affairs Committee when it came up before the committee some weeks ago, when the gentleman unfortunately was not there.

The record is reasonably clear. We have done a yeoman job in waiting for the Law of the Sea to take care of this. It so happens the 77 landlocked nations and the lesser developed countries are dominating the United Nations and the Law of the Sea and there is strong agreement on the 200 miles which we are adopting [Sec. 101] and strong agreement on certain adjacent rights of contiguous nations, and we are adopting that. [Sec. 201]

Beyond that there is confusion. We will not adopt the defense provisions. We can use the bottom of the sea only for peaceful purposes it has been agreed and this confounds some of our capability. We cannot reach agreement on fishing.

What we plan to do with this bill is pass a bill and give leadership to our negotiators in Geneva and give them some power to go back to New York next spring. This bill is not effective until June [Sec. 104] and hopefully then we can resolve the matter along with the community of nations. [Secs. 2(c) (5); 401] There are better than 40 nations today that have more than a 12-mile limit and so it is not unilateral action.

Mr. VAN DERLIN. Mr. Speaker, I thank the gentleman.

I am perplexed by the gentleman's argument that the nations involved in the Law of the Sea Conference are in a state of confusion, and by the gentleman's suggestion that they can look to the House of Representatives to relieve that confusion.

Mr. LEGGETT. It is the greatest deliberative body in the world.

Mr. VAN DERLIN. After hearing the gentleman's argument, I must point out to the gentleman we have plenty of legislation on the books which guarantees tuna fishing rights, and which authorizes the State Department to call back vessels on loan from the United States, which are used to pick up our ships on the high seas. There is legislation which requires withdrawal of foreign aid from nations which engage in these illegal seizures. None of these laws has been enforced. Can the gentleman assure me that any of the relief intended by this bill would be enforced? [Secs. 205; 311]

Mr. LEGGETT. My heart goes out to the frustrations of the gentleman from California and I can assure the gentleman that this bill takes out the discretion which has not been used under the previous legislation and does provide a remedy. [Secs. 205; 311]

Mr. ECKHARDT. Mr. Speaker, is the gentleman saying really seriously that we can or should by statute simply ignore the expressed statement of the treaty?

Mr. LEGGETT. No. What I am saying is this.

Mr. ECKHARDT. That is what we would be doing here.

Mr. LEGGETT. Any treaty, as the gentleman well knows, is the law, but it is not law adinfinitum; it is law until another law takes its place.

Mr. ECKHARDT. Correct.

Mr. Speaker, if the gentleman will yield further, a treaty which is made may constitute international law if it is generally accepted by all nations.

Mr. LEGGETT. Right. But we can change the law of the United States any way we want and when we get 200 authors of a bill, a bill that has passed the Senate by a vote of 2 to 1 and they say we want to change the law of the United States, then we can change the law or treaty or anything else we want to.

Mr. ECKHARDT. Does the gentleman mean change a treaty we have made with other nations and violate existing international law?

Mr. LEGGETT. We have not reneged. I have talked to the Soviets. They are prepared to yield to our exercise of jurisdiction provided we will fish the optimum limit and allow the optimum limit to be fished by the international fleet, which we plan to do. [Secs. 101; 201(d)]

Mr. ECKHARDT. And the gentleman's discussion with the Soviets constitutes grounds to withdraw the solemn agreed treaty agreements, agreed to and confirmed by the Senate?

Mr. LEGGETT. All I am saying is the Senate decided to change this treaty before we did. All we are going to do is go along with the Senate. I think it is wise that we do this.

We can debate the merits of this bill when this bill comes up on Thursday. There is a free and open rule. I think the gentleman raises some important points. It is unfortunate when we heard this matter before the Foreign Affairs Committee there were only a small number in attendance, because we had a good debate and a good give and take, and the matter should be thoroughly explored.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. VAN DEERLIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 360, nays 47, not voting 26, as follows:

[Roll No. 598]

YEAS—360

Abdnor	Clausen, Don H.	Frenzel
Adams	Clawson, Del.	Frey
Addabbo	Clay	Fuqua
Alexander	Cleveland	Gaydos
Ambro	Cochran	Gaiamo
Anderson, Ill.	Cohen	Gilman
Andrews, N.C.	Collins, Ill.	Ginn
Andrews, N. Dak.	Collins, Tex.	Goldwater
Archer	Conlan	Goodling
Armstrong	Conte	Gradison
Ashbrook	Conyers	Grassley
Ashley	Corman	Green
Aspin	Cotter	Guyer
AuCoin	Coughlin	Hagedorn
Badillo	Crane	Hall
Bafalis	D'Amours	Hamilton
Baldus	Daniel, Dan	Hammerschmidt
Barrett	Daniel, R. W.	Hanley
Baucus	Daniels, N.J.	Hannaford
Bauman	Davis	Hansen
Bedell	de la Garza	Harkin
Bell	Delaney	Harrington
Bergland	Dent	Harris
Bevill	Derrick	Harsha
Biaggi	Derwinski	Hastings
Biester	Devine	Hawkins
Bingham	Dickinson	Hechler, W. Va.
Blanchard	Diggs	Heckler, Mass.
Blouin	Dingell	Hefner
Boggs	Dodd	Heinz
Boland	Downey, N.Y.	Ielstoski
Bolling	Downing, Va.	Henderson
Bonker	Drinan	Hicks
Bowen	Duncan, Oreg.	Hightower
Brademas	du Pont	Hillis
Breaux	Early	Holland
Breckinridge	Edwards, Ala.	Holt
Brinkley	Edwards, Calif.	Horton
Brodhead	Eilberg	Howard
Brooks	Emery	Howe
Broomfield	English	Hubbard
Brown, Mich.	Erlenborn	Hughes
Brown, Ohio	Eshleman	Hungate
Broyhill	Evans, Colo.	Hutchinson
Buchanan	Evans, Ind.	Hyde
Burke, Calif.	Fenwick	Ichord
Burke, Mass.	Findley	Jacobs
Burleson, Tex.	Fish	Jarman
Burlison, Mo.	Fisher	Jeffords
Butler	Fithian	Johnson, Calif.
Byron	Flood	Johnson, Colo.
Carney	Florio	Johnson, Pa.
Carr	Flynt	Jones, Ala.
Carter	Foley	Jones, N.C.
Casey	Ford, Mich.	Jones, Okla.
Cederberg	Ford, Tenn.	Kasten
Chappell	Forsythe	Kelly
Clancy	Fountain	Kemp

YEAS—360—Continued

Ketchum	Myers, Pa.	Shuster
Keys	Natcher	Sikes
Kindness	Neal	Simon
Koch	Nedzi	Skubitz
Krebs	Nichols	Smith, Iowa
LaFalce	Nolan	Smith, Nebr.
Lagomarsino	Nowak	Snyder
Landrum	Oberstar	Solarz
Latta	O'Hara	Spellman
Leggett	O'Neill	Spence
Lehman	Ottinger	Staggers
Lent	Passman	Stanton, J. William
Levitas	Patman, Tex.	Stanton, James V.
Litton	Patten, N.J.	Stark
Lloyd, Calif.	Pattison, N.Y.	Steed
Lloyd, Tenn.	Pepper	Steelman
Long, La.	Perkins	Steiger, Ariz.
Long, Md.	Pettis	Steiger, Wis.
Lott	Peyser	Stephens
Lujan	Pickle	Stokes
McClory	Pike	Stuckey
McCormack	Pressler	Studds
McDade	Preyer	Sullivan
McDonald	Pritchard	Symms
McEwen	Quie	Talcott
McFall	Railsback	Taylor, Mo.
McHugh	Randall	Taylor, N.C.
McKinney	Rangel	Teague
Macdonald	Rees	Thompson
Madden	Regula	Thone
Madigan	Reuss	Thornton
Mann	Rhodes	Traxler
Martin	Richmond	Treen
Mathis	Rinaldo	Tsongas
Mazzoli	Risenhoover	Ullman
Meeds	Roberts	Vander Jagt
Melcher	Robinson	Vander Veen
Metcalfe	Rodino	Vanik
Meyner	Roe	Vigorito
Mezvinsky	Rogers	Waggonner
Michel	Roncalio	Walsh
Milford	Rooney	Wampler
Miller, Calif.	Rose	Waxman
Miller, Ohio	Rosenthal	Weaver
Mills	Rostenkowski	Whalen
Mineta	Roush	White
Minish	Rousselot	Whitehurst
Mitchell, Md.	Roybal	Whitten
Mitchell, N.Y.	Ruppe	Wiggins
Moakley	Russo	Wilson, C. H.
Moffett	St Germain	Wilson, Tex.
Mollohan	Santini	Winn
Montgomery	Sarasin	Wirth
Moore	Sarbanes	Wolff
Moorhead, Calif.	Satterfield	Wydler
Moorhead, Pa.	Schneebeli	Wylie
Morgan	Schroeder	Yatron
Mosher	Sebelius	Young, Alaska
Mottl	Seiberling	Young, Fla.
Murphy, Ill.	Sharp	Young, Ga.
Murphy, N.Y.	Shipley	Young, Tex.
Myers, Ind.	Shriver	Zeferetti

NAYS—47

Abzug	Gibbons	Mikva
Anderson, Calif.	Gonzalez	Mink
Annunzio	Gude	Murtha
Bennett	Haley	Nix
Brown, Calif.	Hayes, Ind.	Obey
Burgener	Holtzman	Patterson, Calif.
Burton, Phillip	Jones, Tenn.	Poage
Chisholm	Jordan	Price
Conable	Karth	Runnels
Cornell	Kastenmeier	Schulze
Danielson	Kazen	Slack
Dellums	McCloskey	Stratton
Eckhardt	McCollister	Van Deerlin
Evins, Tenn.	McKay	Yates
Fascell	Mahon	Zablocki
Flowers	Matsunaga	

NOT VOTING—26

Beard, R.I.	Hays, Ohio	Riegle
Beard, Tenn.	Hébert	Ryan
Burke, Fla.	Hinshaw	Scheuer
Burton, John	Jenrette	Sisk
Duncan, Tenn.	Krueger	Symington
Edgar	Maguire	Udall
Esch	Moss	Wilson, Bob
Fary	O'Brien	Wright
Fraser	Quillen	

The Clerk announced the following pairs:

Mr. Hébert with Mr. John L. Burton.
 Mr. Hays of Ohio with Mr. Esch.
 Mr. Edgar with Mr. Hinshaw.
 Mr. Fraser with Mr. O'Brien.
 Mr. Jenrette with Mr. Quillen.
 Mr. Krueger with Mr. Bob Wilson.
 Mr. Moss with Mr. Burke of Florida.
 Mr. Sisk with Mr. Scheuer.
 Mr. Riegle with Mr. Fary.
 Mr. Udall with Mr. Beard of Tennessee.
 Mr. Wright with Mr. Maguire.
 Mr. Symington with Mr. Beard of Rhode Island.
 Mr. Ryan with Mr. Duncan of Tennessee.

Messrs. BLANCHARD and LEHMAN changed their vote from "nay" to yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CHAPTER VI

Union Calendar No. 270

94th Congress }
1st Session }

HOUSE OF REPRESENTATIVES

{ REPORT
No. 94-512**POTENTIAL IMPACT OF THE PROPOSED 200-MILE
FISHING ZONE ON U.S. FOREIGN RELATIONS**

**SPECIAL OVERSIGHT REPORT OF
THE COMMITTEE ON INTERNATIONAL RELATIONS****TOGETHER WITH
ADDITIONAL AND MINORITY VIEWS****ON
H.R. 200, THE MARINE FISHERIES
CONSERVATION ACT OF 1975**

**A REPORT MADE PURSUANT TO RULE X,
CLAUSE 3(d) OF THE RULES OF THE
HOUSE OF REPRESENTATIVES**

OCTOBER 8, 1975.—Committed to the Committee of the Whole House
on the State of the Union and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1975

COMMITTEE ON INTERNATIONAL RELATIONS

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ROBERT J. LAGOMARSINO, California

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(11)

LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 8, 1975.

HON. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: By direction of the Committee on International Relations, I herewith submit the committee's special oversight report on the foreign policy implications of H.R. 200, the Marine Fisheries Conservation Act of 1975.

THOMAS E. MORGAN, *Chairman.*

(III)

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Union Calendar No. 270

94TH CONGRESS } 1st Session }	HOUSE OF REPRESENTATIVES {	REPORT No. 94-542
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POTENTIAL IMPACT OF THE PROPOSED 200-MILE FISHING ZONE ON U.S. FOREIGN RELATIONS

OCTOBER 8, 1975.—Committed to the Committee of the Whole House
on the State of the Union and ordered to be printed

Mr. MORGAN, from the Committee on International Relations
submitted the following

REPORT

together with

ADDITIONAL AND MINORITY VIEWS

I. INTRODUCTION

LEGISLATIVE HISTORY

H.R. 200, the Marine Fisheries and Conservation Act of 1975, was introduced by the Hon. Gerry E. Studds and 24 cosponsors on January 14, 1975, and referred to the Committee on Merchant Marine and Fisheries.

The bill was reported favorably, with amendments, by the Committee on Merchant Marine and Fisheries on August 20, 1975.

The stated purpose of H.R. 200, as amended, is to provide for the protection, conservation, and enhancement of the fisheries resources in waters adjacent to the United States by unilaterally extending the exclusive fisheries zone of the United States from 12 to 200 miles effective July 1, 1976.

IMPACT OF H.R. 200 ON THE JURISDICTION OF THE COMMITTEE ON INTERNATIONAL RELATIONS

The interest of the Committee on International Relations in the bill, H.R. 200, stems from the jurisdiction vested in the committee by the Rules of the House of Representatives. H.R. 200, in both its language and implications, impinges upon the committee's jurisdiction over relations with foreign countries generally, the establishment of boundary lines between the United States and foreign nations, international conferences and congresses, and United Nations organizations. In addition, the Rules of the House grant the committee "special oversight functions" concerning international fishing agreements.

Rule X(i) (1) gives the committee jurisdiction over "relations of the United States with foreign countries generally." This rule encompasses treaty relationships, some of which would be disrupted by the passage of H.R. 200.

Rule X(i) (3) gives the committee jurisdiction over "establishment of boundary lines between the United States and foreign nations." The unilateral establishment of a 200-mile seaward fishing zone [Sec. 101] would, in effect, result in new areas of jurisdiction for resource purposes which if similar claims were made by other countries which are closer than 400 miles to U.S. territory, would require delimitation of the boundaries of this jurisdiction with countries such as Canada, Mexico, Cuba, the Soviet Union, Great Britain, Haiti, the Dominican Republic, and the Bahamas. [Sec. 202(d)]

Rule X(i) (5) gives the committee jurisdiction over "International conferences and congresses." The Third United Nations Conference on Law of the Sea is presently considering the entire matter of seaward boundaries, both for territorial and resource purposes. H.R. 200 makes specific reference to this conference, over which the committee has exercised oversight for several years. [Sec. 2(c) (5); 401]

Rule X(i) (12) gives the committee jurisdiction over "United Nations organizations." The Law of the Sea Conference is an activity

being conducted under the auspices of the United Nations pursuant to resolutions by the United Nations General Assembly. Passage of H.R. 200 would seriously affect the work of the Conference and would have definite ramifications for U.S. interests at the United Nations.

Rule X clause 3(d) gives the committee "special oversight functions" with respect to laws and programs relating to "international fishing agreements." This clause envisages the committee playing a special role in the oversight and review of laws and programs affecting international fisheries. The proposed legislation directly and immediately affects a number of international fishing agreements between the United States and other nations, and related implementing legislation and programs.

The Committee on International Relations has been conducting hearings on matters relating to the Third United Nations Conference on Law of the Sea since 1968. The Subcommittee on International Organizations has held numerous hearings; hearings at the full committee level have also been held. In 1973, the House passed House Resolution 330, the "Law of the Sea Resolution," which originated in the Committee on International Relations. That resolution, passed by a vote of 303 to 57, endorsed U.S. objectives for a just and equitable ocean treaty. Until the convening of the 94th Congress, when primary jurisdiction over international fishing agreements was transferred to the Committee on Merchant Marine and Fisheries, the Committee on International Relations exercised jurisdiction over a large number of bills concerned with U.S. implementation of international fishing agreements. Under the new rules of the House, the committee retains "special oversight functions" on this subject.

COMMITTEE ACTION

On the basis of jurisdiction granted to the Committee on International Relations by the Rules of the House over matters pertaining to H.R. 200, the chairman of the committee requested sequential referral of H.R. 200 after it had been reported favorably by the Committee on Merchant Marine and Fisheries. When the Speaker ruled against sequential referral and assigned the bill to the Union Calendar, the committee exercised its oversight functions in lieu of jurisdiction under sequential referral.

On September 24, 1975, the Committee on International Relations held an oversight hearing on H.R. 200.

At the outset of the hearing, Chairman Thomas E. Morgan brought to the committee's attention a letter dated September 24, 1975, which he had received from Secretary of State Henry A. Kissinger. In his letter, Secretary Kissinger stated that H.R. 200 "raises serious questions of foreign policy." Secretary Kissinger's letter also included the text of a speech on international law which he delivered to the American Bar Association Annual Convention on August 11, 1975. The relevant excerpts from that speech are as follows:

Many within Congress are urging us to solve this problem unilaterally. A bill to establish a 200-mile fishing zone passed the Senate last year; a new one is currently before the House.

The administration shares the concern which had led to such proposals. But unilateral action is both extremely dan-

gerous and incompatible with the thrust of the negotiations described here. The United States has consistently resisted the unilateral claims of other nations, and others will almost certainly resist ours. Unilateral legislation on our part would almost surely prompt others to assert extreme claims of their own. Our ability to negotiate an acceptable international consensus on the economic zone will be jeopardized. If every state proclaims its own rules of law and seeks to impose them on others, the very basis of international law will be shaken, ultimately to our own detriment.

To conserve the fish and protect our fishing industry while the treaty is being negotiated, the United States will negotiate interim arrangements with other nations to conserve the fish stocks, to insure effective enforcement, and to protect the livelihood of our coastal fishermen. These agreements will be a transition to the eventual 200-mile zone. We believe it is in the interests of states fishing off our coasts to cooperate with us in this effort.

During the course of the hearing, the committee received testimony from the following witnesses: Hon. Mike Gravel, U.S. Senator from the State of Alaska; Representative Robert L. Leggett, chairman of the Subcommittee on Fisheries and Wildlife; Representative Gerry E. Studds, the principal sponsor of H.R. 200; Hon. Carlyle E. Maw, Under Secretary of State for Security Assistance and the President's Special Representative to the Law of the Sea Conference; Ambassador John Norton Moore, Chairman of the Interagency Task Force on the Law of the Sea; and Ambassador Thomas A. Clingan, Jr., expert consultant to the Department of State for fisheries affairs.

In addition, the committee also received statements on H.R. 200 from the following individuals and organizations: the United States Committee for the Oceans; John Temple Swing, vice president and secretary of the Council on Foreign Relations; Hon. Jay S. Hammond, Governor of Alaska; the National Shrimp Congress; the American Tunaboat Association; the Tuna Research Foundation; the National Research Council, Commission on Natural Resources; and the National Parks and Conservation Association.

Pursuant to rule X, clause 3(d) of the rules of the House, the committee met in open session on October 3, 1975, to consider an oversight report on the foreign policy implications of H.R. 200.

On October 7, 1975, the committee again met in open session to continue its consideration of the oversight report and by a vote of 15 ayes to 5 nays, with one voting present, the committee approved a motion to direct the chairman to transmit a copy of the report to the Speaker of the House.

SUMMARY OF COMMITTEE FINDINGS AND CONCLUSIONS

In submitting this oversight report, the Committee on International Relations is expressing its interest in seeking the most effective means of protecting all U.S. interests in the oceans including fisheries, while respecting international law and treaty obligations.

It is the considered judgment of the Committee on International Relations that H.R. 200 should not pass for the following reasons:

The broad range of U.S. ocean interests can best be protected by international agreements, not by unilateral actions.

H.R. 200 would damage U.S. objectives at the Law of the Sea Conference including our efforts to obtain special regimes for salmon and for distant-water fisheries such as tuna and shrimp.

There are alternative means of achieving a transition to a 200-mile coastal fisheries zone by international agreements, not by unilateral action.

Unilateral action will adversely affect other important U.S. foreign policy interests.

H.R. 200 would provoke retaliatory action by other nations.

H.R. 200 is unenforceable.

H.R. 200 is inconsistent with longstanding U.S. policy.

H.R. 200 violates U.S. treaty obligations.

H.R. 200 is not an interim measure.

II. THE BROAD RANGE OF U.S. OCEAN INTERESTS CAN BEST BE PROTECTED BY INTERNATIONAL AGREEMENTS, NOT BY UNILATERAL ACTIONS

H.R. 200 poses the important question of whether nations will determine the uses of the oceans by uncontrolled unilateral assertions of conflicting national claims or by a set of rules broadly agreed upon through negotiations. The necessity for a comprehensive ocean treaty which would establish new rules for uses of the oceans was created precisely by the danger of heightened conflicts as a result of national claims, made more so by the increasing application of modern technology to the development of economic resources in the oceans. The Third United Nations Conference on Law of the Sea has before it the task of arresting the trend toward chaos in the oceans by reaching agreements which can insure a reasonable degree of order as uses of the ocean increase. The U.S. Government—both the executive and legislative branches—is committed to achieving that goal.

Secretary of State Kissinger on August 11, 1975, described the Law of the Sea Conference as “* * * one of the most comprehensive and critical negotiations in history—an international effort to devise rules to govern the domain of the oceans. No current international negotiation is more vital for the long-term stability and prosperity of our globe. * * * The breakdown of the current negotiation, a failure to reach a legal consensus, will lead to unrestrained military and commercial rivalry and mounting political turmoil.”

The agenda of the Law of the Sea Conference covers the entire range of ocean uses. More than 140 nations are participating in these negotiations, representing a wide range of diverse interests, needs and problems.

The United States has important interests in these principal issues before the conference:

Breadth of territorial sea—the belt of ocean over which coastal states exercise sovereignty equivalent to that which they have on land. There is wide agreement on a territorial sea of 12 miles which the United States supports providing that unimpeded passage through international straits is also preserved.

Establishment of a 200-mile economic resource zone—an area in which coastal states can exercise jurisdiction over economic resources in the oceans beyond their territorial waters. The United States favors

such a zone including jurisdiction over coastal fisheries providing that such agreement protects other vital uses of these areas of the oceans such as navigation and scientific research and also assures access for taking fish which the coastal state is not able to take, consistent with conservation requirements.

Two-hundred-mile zones would encompass more than one-third of the world ocean, hence the importance of internationally agreed limitations on coastal state jurisdiction in these areas.

Establishment of an international system for exploitation of the resources of the deep seabeds—to insure that the vast hard mineral resources of the deep seabeds are mined in an equitable manner so as to avoid an unbridled race among nations to lay claim to broad areas of the virgin seas. The United States has a vital interest in assuring peaceful access to these minerals under widely acceptable rules.

Protection of the oceans from pollution—to insure the environmental integrity of the oceans for the benefit of all nations. This requires that international pollution standards apply over the widest areas of the oceans.

Encouraging the advancement and sharing of marine scientific research—while safeguarding the legitimate interests of coastal states in their economic resource zones.

It can be seen from the foregoing that the United States has enormous stakes in the Law of the Sea Conference and that many important American interests are involved, including the national defense establishment, the fishing industry, the mining industry, the scientific community, the shipping industry, the petroleum industry, and environmental interests. Not all countries share this broad range of interests; many would prefer to claim a 200-mile coastal zone in which coastal states would exercise a more extensive jurisdiction while also insuring continued maritime uses of the area. The negotiations are a delicate balancing act of wide-ranging and often conflicting interests perhaps unparalleled in diplomatic history.

While the slow progress of the Law of the Sea negotiations has been disappointing to many, nonetheless, progress is being made. A single negotiating text representing substantial agreement on important issues such as the territorial sea and the economic zone including fisheries has been completed. This text will be the focus of work at the next session of the Conference in New York during the spring of 1976. The major area of continuing disagreement concerns the nature of the international regime to govern the exploitation of deep seabed minerals. With respect to fisheries, there appears to be a consensus for a 200-mile economic resource zone, within which the coastal state would manage coastal fisheries but which would also permit foreign nations to fish in the zone if the coastal state does not harvest the yearly maximum sustainable yield. The present draft includes special provisions for salmon, which cannot be protected by unilateral legislation affecting coastal fisheries.

It is in this setting that H.R. 200 has been reported favorably by the Committee on Merchant Marine and Fisheries. The House of Representatives is being asked to assert a unilateral claim which would disrupt substantial numbers of existing fisheries agreements and also alter international conventions to which the United States is a party.

III. H.R. 200 WOULD DAMAGE U.S. OBJECTIVES AT THE LAW OF THE SEA CONFERENCE INCLUDING OUR EFFORTS TO OBTAIN SPECIAL REGIMES FOR SALMON AND FOR DISTANT-WATER FISHERIES SUCH AS TUNA AND SHRIMP

With respect to fisheries, the U.S. position at the Law of the Sea Conference is not only to assure coastal state jurisdiction over coastal species but also to enable special treatment for noncoastal species such as tuna and salmon which cannot be protected without international agreements. We also want to assure rights of access to the fisheries zones of other states. If other states followed the precedent of unilateral action, their fisheries, including tuna within their zones, could be closed to foreign fishing.

Furthermore, proponents of H.R. 200 minimize its effect on Law of the Sea negotiations by asserting that it deals only with fish resources of the oceans and does not interfere with negotiations concerning the other issues such as defense, environment, and seabed minerals. [Secs. 2(c)(1); 2(c)(2)] But this assertion ignores a basic fact of the Law of the Sea negotiations—that all of the issues are intertwined and that what one country is willing to concede on passage through straits, for example, may be dependent on what another country is willing to concede on fisheries or marine pollution. Proponents also note that the effective date of H.R. 200—July 1, 1976 [Sec. 104]—allows time for the Conference to conclude its New York session. This, however, ignores the fact that the political impact of passage of H.R. 200 before the New York session begins will have adverse consequences on the negotiations regardless of the effective date of the legislation. [Sec. 104] The critical point is not the effective date [Sec. 104] of the legislation but the announced decision by the United States that it will act unilaterally to protect its ocean interest. [Sec. 101] This precedent will enable other nations to assert their own claims and thus eliminate the incentives to reach an agreement.

Moreover, because of the problems of enforcement [Sec. 311] of such unilateral claims, the bill is unlikely to achieve its stated purpose. There are other ways through bilateral and multilateral agreements to protect coastal fisheries on an interim basis pending a Law of the Sea Treaty.

IV. THERE ARE ALTERNATIVE MEANS OF ACHIEVING A TRANSITION TO A 200-MILE COASTAL FISHERIES ZONE BY INTERNATIONAL AGREEMENTS, NOT BY UNILATERAL ACTION

A comprehensive ocean treaty negotiated at the Law of the Sea Conference is a preferable alternative to H.R. 200, if it provides a reasonable balance of international and American interests, including fisheries. However, the executive branch has recognized the need to take effective interim measures to protect endangered stocks now. The President has approved the establishment of a 200-mile fisheries zone by negotiation but *not* by unilateral action. As Secretary of State Kissinger announced in his speech in Montreal, the United States is now beginning to negotiate interim agreements with nations fishing off our coasts as a transition to such a zone. Testimony before the committee stated that this plan will proceed irrespective of the timetable of the Law of the Sea Conference.

This plan seeks to establish an effective conservation regime; create preferential harvesting rights for U.S. fishermen; implement a system

for collection of fisheries data; introduce more effective enforcement procedures; and implement satisfactory arrangements to resolve conflicts and insure adequate compensation to U.S. fishermen in case of damage by foreign fishermen. Such a plan has the merit of having been *negotiated*, not imposed illegally by unilateral fiat. Its concerns are the same as those of beleaguered U.S. fishermen: conservation of steadily depleting coastal fish stocks and protection of U.S. fishing interests.

V. UNILATERAL ACTION WILL ADVERSELY AFFECT OTHER IMPORTANT U.S. FOREIGN POLICY INTERESTS

The proposed legislation will increase the potential for conflict around the world; first from our efforts to enforce this zone against other nations, [Secs. 101; 311] and second, in the need to protect our own interests in more extreme zones that may be claimed by others.

The United States has consistently resisted, as a matter of principle, unilateral claims of other nations to jurisdiction over broad areas of the oceans. No major power has sought to make such claims, and other nations can be expected to resist ours. [Sec. 101] At the same time, nations with more limited interests will seize upon this precedent to claim their own more extreme zones which could cause interference with rights of navigation, commercial shipping routes, scientific and other important uses of the oceans. The trend toward ever-escalating claims which we seek to avoid through a new law of the sea agreement will increase.

While some other nations have made such 200-mile claims, these are not accepted under international law and do not have the same international impact as would such a step taken by the United States. [Sec. 101] The United States cannot by domestic legislation require other nations to limit their claims to those we assert in the bill. [Secs. 2(c)(1); 2(c)(2); 101] Such limitations can only be reached by agreement. Our example can encourage the development of law or can enormously accelerate international disorder on the oceans.

Decisions to enforce our own zone [Sec. 311] and to protect our rights elsewhere in the oceans [Secs. 201(f); 205] will be an added element of instability and uncertainty in the fabric of our international relations, and particularly with nations such as Japan and the U.S.S.R.

VI. H.R. 200 WOULD PROVOKE RETALIATORY ACTION BY OTHER NATIONS

Observers at the Law of the Sea Conference have reported that several countries, such as Mexico, are stating intentions to assert unilateral claims of their own should the United States do so. [Sec. 101] Some of these claims may not be confined to fisheries, but could apply to other resources, to the detriment of other U.S. economic interests. The United States will then be faced with the additional problem of protecting its own nonresource interests in the zones claimed by other states.

The movement of oil to the United States could be the first U.S. interest prejudiced if coastal states claim unilateral pollution control jurisdiction or seek in other ways to control international shipping routes—most, if not all, of which are within 200 miles of coast lines.

VII. H.R. 200 IS UNENFORCEABLE

Section 2 of H.R. 200 requires that the U.S. fishing zone be extended unilaterally from 12 to 200 miles [Sec. 101], effective July 1, 1976. [Sec. 104] Such a zone [Sec. 101] would apply to the 50 States, including Alaska and Hawaii, and all U.S. possessions, including Puerto Rico, Virgin Islands, Guam, and American Samoa. The extended zone would cover 2,222,000 square miles—an area than two-thirds of the total land area of the United States.

The U.S. Coast Guard does not now have the capacity to enforce this legislation over the widely increased area that H.R. 200 would cover. [Sec. 311] An increase in the Coast Guard budget would be necessary to acquire the additional personnel and equipment. In a letter of Hon. Leonor Sullivan, chairman of the Committee on Merchant Marine and Fisheries, the Commandant of the Coast Guard, Admiral O. W. Silver, stated that "to acquire and operate these facilities will require a very substantial increase in our operating expense and acquisition, construction and improvement appropriations." In addition, the Commerce Department would require substantial additional appropriations [Sec. 406] for its role in enforcement. [Sec. 311] The report of the Committee on Merchant Marine and Fisheries on H.R. 200 estimates an expense at \$55,866,000 for fiscal year 1976 and more than \$665 million by fiscal year 1981 will be required to implement the legislation. [Sec. 406] More extensive studies of the cost of enforcement should be made, however—including an estimate by the General Accounting Office—before funds are appropriated for this purpose. [Sec. 406]

More importantly, these figures are just for the cost of monitoring the zone in concentrated areas against states which do not resist our jurisdiction. The cost—not to mention the danger—has not—and probably cannot—be estimated for enforcing this zone against states which do not recognize our unilateral claims. [Sec. 311]

If conservation measures and enforcement procedures are arrived at by agreement, the cost—and the risk—is substantially lower.

The problem of enforcement is not only financial. As stated in part IV, the measure would require difficult decisions of enforcement against nations such as the U.S.S.R. affecting vital U.S. foreign policy interests. [Sec. 311]

VIII. H.R. 200 IS INCONSISTENT WITH LONGSTANDING U.S. POLICY

The United States has always resisted jurisdictional claims by other nations extending claims of exclusive fisheries jurisdiction beyond 12 miles. Both the executive branch and Congress have reacted sharply to the seizure of American fishing vessels off the coasts of South American countries which claim 200 miles. H.R. 200 would have the United States join a small company of the same nations whose unilateral claims it has been denouncing as illegal. The inconsistency of H.R. 200 is evident in its provision for application of the Fisherman's Protective Act when U.S. vessels are seized within 200 miles of foreign coasts.

[Sec. 403] The United States cannot have it both ways. **[Secs. 101; 403]** If there is no existing international law with regard to fisheries in the area of the 200-mile zone, as the bill claims, we can hardly argue that a claim to tuna such as that made by Ecuador is contrary to existing international law. On the other hand, if we claim the right to exercise unilateral jurisdiction over a 200-mile area **[Sec. 101]**, we can hardly require other nations to permit access to our vessels in a similar zone claimed by them. **[Sec. 403]**

Moreover, the imposition of trade embargoes (section 203 of H.R. 200) **[Sec. 205]** against states that refuse to negotiate agreements to permit access to U.S. vessels, is contrary to our longstanding policy against automatic embargoes. These provisions could lead to economic retaliation and also could affect other U.S. interests which may be current at the time with the country concerned. **[Sec. 205]**

In short, we cannot deny to other states the right to make the same claims we make, and we can expect that such claims will be even more extensive. **[Secs. 101; 403]**

IX. H.R. 200 VIOLATES U.S. TREATY OBLIGATIONS

The United States is a party to 11 bilateral and 6 multilateral fishing agreements. Foreign nations who are parties to treaties involving U.S. coastal fisheries have the juridical right under those treaties to conduct fishing operations pursuant to those agreements. H.R. 200 would treat foreign fishing interests, long established under international law, as purely a matter subject to domestic legislation. **[Secs. 201(d); 201(e)]** H.R. 200 requires the Secretary of State promptly to renegotiate all relevant treaties to conform with the terms of this U.S. domestic legislation (section 202). **[Sec. 202]** In effect, the bill directs the Secretary to negotiate changes in treaties that have been ratified with the advice and consent of the Senate. In any case, enforcement of H.R. 200 **[Sec. 311]**, at the very outset, places the United States in clear violation of treaties to which it is a party and customary international law. For example, the United States has always protected its rights on the high seas beyond the territorial sea. High seas rights under existing international law include freedom of fishing beyond a 12-mile fishing zone except as modified by bilateral and other international agreements.

X. H.R. 200 IS NOT AN INTERIM MEASURE

Proponents of H.R. 200 claim that the bill is an interim measure which would be superseded by a comprehensive law of the sea treaty when the latter becomes effective. **[Sec. 401]**

However, under section 205 of the bill, the Secretary of Commerce, in consultation with the Secretary of State, is given *discretionary*—not mandatory—authority to promulgate changes in the legislation to conform with such a treaty. **[Sec. 401]** Thus, H.R. 200 does not contain any assurance that its provisions will be supplanted by a new multilateral convention on the law of the sea. **[Sec. 401]**

Moreover, the constitutionality of section 205 is questionable, since a treaty ratified with the advice and consent of the Senate becomes the supreme law of the land. **[Sec. 401]**

ADDITIONAL VIEWS OF HON. BENJAMIN A. GILMAN

I concur with the findings and conclusions of the House International Relations Committee's Special Oversight Report on H.R. 200, the Marine Fisheries Conservation Act of 1975.

Having been both a cosponsor of the 200-mile-limit legislation in the 93d session and thereafter having served, for the past year, as a Congressional Advisor to the Law of the Sea Conference, I have had an opportunity to fully review and weigh the effect that passage of this type of unilateral legislation would have upon our Nation's present and future international negotiations.

Essentially, the problem posed by H.R. 200 is that if this measure should be enacted into law, the United States would then, for the first time, exercise unilateral jurisdiction over areas of the oceans in which other nations presently exercise high seas rights. [Sec. 401]

John Norton Moore, Chairman of the National Security Council's Interagency Task Force on the Law of the Sea, in his testimony before the House International Relations Committee's Oversight Hearings on H.R. 200, succinctly stated the choice presented by this measure, noting that "how we decide this issue will largely determine whether we move forward to cooperative solutions to oceans problems or precipitate a spiral of unilateral claims leading inevitably to confrontation and conflict."

The United States has consistently opposed the exercise of such jurisdiction by other nations and has instead urged that any necessary modifications in existing international law, including coastal fisheries jurisdiction, be made by international agreement.

In his September 18, 1975 greetings to the special meeting of the International Commission for the Northwest Atlantic Fisheries, President Ford stated that "I am strongly opposed to unilateral claims by nations to jurisdiction on the high sea."

If we establish the precedent of unilateral action, other nations with more limited interests in the oceans can be expected to make more extensive claims of jurisdiction which could affect other U.S. interests, including both our national security and the prosperity of our distant water fisherman. It has been estimated that over 40 percent of the world's oceans are within 200 miles of some nation's coast, and that virtually the entire operating areas of the United States 6th and 7th Fleets lie within such waters.

Should H.R. 200 pass, we will also be faced with serious questions of enforcement [Sec. 311] both in terms of costs of that enforcement [Sec. 406] and relations with those nations fishing off our coasts, most notably Japan and the U.S.S.R. A conservative estimate for the first year cost of this legislation, not including the potential economic deficit due to a loss of distant water fisheries, would be approximately \$140 million over present funding levels. [Sec. 406] Further, passage of this legislation could seriously increase the potential for conflict around the world.

Most of us agree that some action must be taken to improve the situation of our coastal fisheries and to ensure strong conservation and enforcement measures. I have long supported the need for a controlled economic zone extending outward from the territorial waters of the United States. But it is the considered judgment of those in the administration concerned with the Law of the Sea Conference that unilateral action such as contemplated by H.R. 200 will make difficult, if not impossible, our Nation's more important effort of securing an agreement on broader coastal state jurisdiction over economic resources, and to impose obligations on coastal states to permit foreign fishing for catch that cannot be taken by the coastal state consistent with internationally recognized conservation measures. Without such agreements, our distant water tuna and fishing fleets will be subject to the arbitrary exercise of jurisdiction by other coastal states, who could easily decide to deny our fleets access to their fisheries zones altogether.

It should also be noted that the United States has possible alternatives to pursue, aside from that of unilateral action and the dangerous precedent that would result from such action.

One alternative is to proceed with the Law of the Sea Conference (which will convene again in March, 1976, in New York) in an effort to obtain a comprehensive, acceptable multilateral agreement.

The administration has also announced that the State Department will soon enter into the renegotiation of 11 bilateral fisheries agreements and that 6 multilateral commissions are scheduled to convene next year for further negotiations.

That this type of phased negotiation can be successful was demonstrated by the success that U.S. proposals encountered last week at the meeting of the International Commission for the Northwest Atlantic Fisheries. This 17-member body, which includes principal major nations that fish off our Northeast and Middle Atlantic Coast, agreed to take positive action to reduce by more than 23 percent the 1976 overall catch quota for the Northwest Atlantic. The Commission also agreed to another U.S. proposal to close off on a year-round basis most of the St. Georges Bank in the North Atlantic to bottom trawling for valuable and depleted ground fish species.

These two acts in and of themselves should allow for the recovery of fish stocks off our coasts within a reasonable period of time.

It is also significant to note that while some other countries have attempted to unilaterally assert extensive jurisdiction, some as far as 200 miles, no major power with important ocean interests has sought to do so. As a leader in the Law of the Sea Conference, the U.S. must recognize that it cannot take unilateral action without full consideration of the consequences of such action.

Secretary of State Kissinger, speaking before the American Bar Association's annual convention in Montreal on August 11, 1975, stated:

The current negotiation may thus be the world's last chance. Unilateral national claims to fishing zones and territorial seas

extending from fifty to two hundred miles have already resulted in seizures of fishing vessels and constant disputes over rights to ocean space. The breakdown of the current negotiation, a failure to reach a legal consensus, will lead to unrestrained military and commercial rivalry and mounting political turmoil . . .

The United States strongly believes that law must govern the oceans . . .

Many within Congress are urging us to solve this problem unilaterally. A bill to establish a 200-mile fishing zone passed the Senate last year; a new one is currently before the House.

The Administration shares the concern which has led to such proposals. But unilateral action is both extremely dangerous and incompatible with the thrust of the negotiations described here. The United States has consistently resisted the unilateral claims of other nations, and others almost certainly resist ours. Unilateral legislation on our part would almost surely prompt others to assert extreme claims of their own. Our ability to negotiate an acceptable international consensus on the economic zone will be jeopardized. If every state proclaims its own rules of law and seeks to impose them on others, the very basis of international law will be shaken, ultimately to our own detriment.

It is for these reasons that I join with the chairman and members of the House International Relations Committee in asking that H.R. 200 not be adopted at this time.

BENJAMIN A. GILMAN.

MINORITY VIEWS OF HON. STEPHEN J. SOLARZ; HON.
DON BONKER AND HON. ROBERT J. LAGOMARSINO

Traditional international law has held that all countries have equal rights to fish anywhere they desire on the high seas. This principle of freedom of fishing on the high seas was originally enunciated by Hugo Grotius in 1608. For some three and a half centuries following the enunciation of this axiom, nations took as much fish as they wanted from the world's oceans, seas, lakes, rivers and streams with little or no concern for the future. Fish were considered to be the common property of all and no attempts were made to conserve this rich natural resource. However, the basis of Grotius' principle, that the seas' resources are limitless, has proven to be invalid. Modern fishing techniques, an increase in world fishing activity, a significant rise in the world's population and the increasing demand for fish have all resulted in a situation whereby we are confronted with a serious depletion of fish supplies and the extinction of many species.

It is the attack on American fisheries near our coasts, beginning in the early 1960's, and which has now reached a crisis stage, which has precipitated the need for legislation such as H.R. 200. [Sec. 2] There seems to be little question that the three-mile and twelve-mile limits are no longer valid. In the absence of any positive initiatives by the U.N. or other international bodies, action must be taken by our own nation to further extend U.S. jurisdiction over fish and marine life in our territorial waters and contiguous fishery zones, [Secs. 2; 101] even on an interim basis. [Sec. 401] Frankly, if effective conservation and management of increasingly scarce fish populations are not promptly initiated, the world will be confronted by the loss of one of its most valuable sources of protein-rich food. [Sec. 2]

For the past several years the United States has attempted to protect scarce fish stocks through multilateral and bilateral fisheries agreements. Unfortunately, this tact has not been successful. The decimation of our coastal fish stocks by foreign fleets continues and has aroused the serious concern of conservationists and others who oppose the continuing destruction of our important marine life food resources. One can cite statistic after statistic showing a sharp decline in the U.S. fishing industry and a serious depletion in the number of various stocks of fish. Last year a Senate committee report observed that "Huge foreign fishing fleets which use 'factory' fishing methods are often subsidized by foreign governments and have forced U.S. fishermen to greatly increase their efforts merely to retain a steadily diminishing share of the total fishing catch off U.S. coasts." [Sec. 2]

In late 1973, the Congress voiced its concern by passing S. Con. Res. 11, unanimously adopted by the House, which states that "it is the policy of the Congress that our fishing industry be afforded all support necessary to have it strengthened, and all steps be taken to provide adequate protection for our coastal fisheries against excessive foreign

fishing, and further that the Congress is fully prepared to act immediately to provide interim measures to conserve overfished stocks and to protect our domestic fishing industry." [Sec. 2]

Although one might prefer that the exercise of effective U.S. fisheries conservation jurisdiction be achieved in accordance with a comprehensive Law of the Sea Treaty, the Congress has been most patient while foreign fleets have continued their destructive overfishing of our coastal stocks. As yet, the Law of the Sea Conference has failed to meet the September 1975 deadline, established by the U.N. General Assembly, to conclude negotiations. Few observers of the Conference believe there is any hope for the conclusion of a treaty in 1976. At the oversight hearing conducted by the International Relations Committee on September 24, 1975, Under Secretary of State Carlyle E. Maw, Chief of the U.S. Delegation to the Third U.N. Law of the Sea Conference, declared that he was unable to even predict that the conference would conclude the negotiations within 3 or 5 years. If we are to wait that long for truly substantive fish conservation and management authority, the continuing foreign overfishing will have destroyed the fish and the Congress will be guilty of idly standing by while this vital world food source is quickly depleted. [Sec. 2]

Probably the most controversial feature of H.R. 200 is its provision for extending U.S. fisheries conservation and management jurisdiction to 200 miles from our coast, [Sec. 101] effective July 1, 1976. [Sec. 104] However, the legislation also creates a structure of regional fisheries management councils empowered with responsibility for adopting conservation and management plans for each depleted or threatened species of fish. [Secs. 302; 303] The regional councils created at once after the bill's enactment, [Sec. 302] and the adoption of conservation rules applying to both American and foreign fishing, [Sec. 201] would be implemented well before the July 1, 1976 extension of U.S. fisheries jurisdiction under the measure. [Sec. 104]

The United States is a party to almost two dozen international fishing agreements. There seems to be little question, however, that these treaties are virtually worthless as nearly all of the stocks of fish which are either depleted or faced with depletion are the subject of these various multinational and bilateral agreements. Tragically, international agreements have failed to provide meaningful or effective protection for fish stocks and have not succeeded in governing proper fishing techniques.

It must be understood, however, that H.R. 200 does *not* abrogate or violate U.S. obligations under these existing treaties. [Secs. 201; 202] The legislation specifically indicates that these treaties will continue to be honored until their legal termination or renegotiation. [Secs. 201; 202] The bill does instruct the Secretary of State to attempt to renegotiate expiring bilateral fisheries agreements and existing multilateral fisheries agreements to bring them into conformity with the policies and provisions of the bill. [Sec. 202] Inclusion of these instructions in the legislation merely transforms into statutory requirement the negotiating efforts the State Department has been attempting for some 2 years, and to which the Department recently reaffirmed its commitment. [Sec. 202] Extant fisheries treaties and agreements would continue to be honored until this renegotiation has been completed. [Secs. 201; 202]

Some maintain that passage of H.R. 200 would jeopardize the rights of U.S. tuna and shrimp fishermen who fish close to other nations, and would jeopardize effective conservation of American salmon stocks. Such conclusions are not justified by a reading of the bill. Tuna is specifically excluded from the U.S. fisheries jurisdiction extension as tuna are biologically different from other types of fish and range throughout large areas of the oceans. [Sec. 103] A number of sections of the bill reaffirm the intent of the Congress that tuna continue to be regulated solely by international organizations and not by national jurisdiction claims. [Secs. 2(b)(2); 103] Section 204, in particular, instructs the Secretary of State to attempt, through negotiation to make existing international regulation of tuna more effective. [Sec. 202(a)(4)(B)] Section 203 instructs the Secretary to negotiate with nations off whose shores U.S. tuna and shrimp vessels fish with a view toward securing continued agreement to the presence of American fishing vessels off their shores. [Sec. 202(a)]

Section 201(k) of H.R. 200 implements Article 7 of the International Convention on Fishing and Conservation of the Living Resources of the High Seas, providing for U.S. management of the salmon and other anadromous fish which spawn in our freshwater rivers. Thus, the legislation uses existing international law to provide the protection required by this third biological type of fish. [Secs. 102(2); 202(a)(4)(B)]

Contrary to the views of some, the United States has long led in establishing international law in relation to fisheries. It has previously taken unilateral actions in this regard. President Truman's unilateral proclamation, in 1945, that the United States would exercise jurisdiction over the living and mineral resources on and under the Continental Shelf was not codified into international law until the 1958 Law of the Sea Conference. The extension of U.S. fisheries jurisdiction by the Congress from 3 to 12 miles off our shores in 1966 was also a unilateral action and is still unrecognized in codified international law. It should be noted that the U.S. arrests foreign fishing vessels violating the 12-mile fisheries jurisdiction and such arrests cannot be considered to have led to international confrontations. The present trend in international law—exemplified by the almost universal acceptance by countries at the Law of the Sea Conference—is toward a 200-mile economic or fishing zone for coastal states. At present 13 nations observe a 200-mile limit and a total of 40 countries have extended their fishing jurisdictions beyond the traditional limit of 12 nautical miles. The enactment of H.R. 200 would not reverse the U.S. long-standing policy. [Sec. 101] Rather, it would continue its tradition of recognizing trends in international law regarding conservation and management of fisheries resources, and of acting in accordance with those trends to protect the sea's living resources. [Sec. 2] the Law of the Sea Conference can complete an acceptable treaty. [Sec. 401] It is also an emergency measure which would result in swift action being taken to protect and conserve U.S. coastal fishery stocks and maintain a visible fishing industry along America's coastline. [Sec. 2]

It is my understanding that the Law of the Sea Conference is in basic agreement on the fisheries provision of a treaty but that the current stalemate pertains to deep-sea mining and certain other issues. At this time one cannot predict when or if the Conference will actually complete an acceptable treaty. Even if such a treaty had already been concluded, it would be another five or ten years before a sufficient number of nations had ratified it to cause it to become fully effective. Frankly, enactment of H.R. 200—which is consistent with the Conference's consensus on fisheries jurisdiction—might very well provide the needed stimulus toward the completion of negotiations on the other issues. [Sec. 2(c)(5)] In any event it is critical that the United States take interim action [Sec. 401] at this time to prevent the destruction of our coastal fisheries. [Sec. 2] Such a move, in my view, would be consistent with the developing principles of international law. Further, it would neither weaken our future negotiating position [Sec. 2(c)(5)] nor strain the country's military resources to effectively enforce a 200-mile limit. [Sec. 311] Thus, we cannot delay further [Sec. 2] and H.R. 200 warrants favorable consideration and passage.

STEPHEN J. SOLARZ,
DON BONKER,
ROBERT J. LAGOMARSINO.

94TH CONGRESS } 1st Session }	HOUSE OF REPRESENTATIVES }	REPORT No. 94-445
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MARINE FISHERIES CONSERVATION ACT OF 1975

AUGUST 20, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mrs. SULLIVAN, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

together with

SUPPLEMENTARY and DISSENTING VIEWS

[To accompany H.R. 200]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 200) to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

[Sec. 1]

This Act may be cited as the "Marine Fisheries Conservation Act of 1975".

[Sec. 2]

SEC. 2. CONGRESSIONAL FINDINGS, POLICY, AND PURPOSES.

(a) **FINDINGS.** **[Sec. 2(a)]**—The Congress finds and declares the following:

(1) Coastal species of fish which inhabit the waters adjacent to the United States, highly migratory species of the high seas, species which dwell on or in the Continental Shelf, and anadromous species which squawn in United States rivers and estuaries, constitute an irreplaceable resource which contribute to the food supply and economy of the Nation as well as to the health and recreation of its people.

(2) Stocks of fish which United States fishermen depend upon have been the target of concentrated foreign fishing which has increased dramatically during the past decade. Certain coastal and anadromous species are depleted to the point where the survival of the fisheries is threatened and others have been substantially reduced in number, as the result of continued overfishing and failure to initiate or to observe sound conservation practices.

(3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon the fishing industry as the foundation of the local economy. The depletion of fishery resources at an ever-increasing rate over the past decade threatens the social and economic fabric of those coastal regions where fishing and related activities are the principal source of employment.

(4) United States fishermen, confronted by massive foreign fishing fleets in coastal waters of the United States, have suffered extensive interference with their fishing efforts and destruction of their gear under circumstances which render it virtually impossible to secure compensation.

(5) International agreements have not been effective in halting the depletion of valuable coastal and anadromous species caused by such over-fishing; and even to the extent that international agreements might ultimately prove to be effective, there is danger that irreversible depletion of such species will take place before such agreements can be negotiated, signed, ratified, and implemented.

(6) Fishing for coastal and anadromous species is carried out in part on the high seas off the coasts of the United States by United States and foreign vessels where no regime of law, except for specific international agreements, applies to govern fishing or to require conservation practices.

(7) Fisheries resources are renewable and if placed under sound management before depletion has caused irreversible effects, can be restored to provide optimum sustainable yield. It is therefore in the national interest and in the interest of all nations and peoples engaged in fishing on the high seas to provide effective management programs that will both maintain the optimum sustainable yield of fisheries resources and support the commercial and recreational fishing industries.

(8) Developing international law, as proposed in the informal single negotiating text recently prepared at the Third United Nations Conference on the Law of the Sea, proposes primary coastal State management and preference over coastal species in an economic zone extending to 200 miles beyond the baseline of the territorial sea, and primary host State management and preference over anadromous species.

(b) POLICY AND PURPOSES. [Secs. 2(b) ; 2(c)]—It is therefore declared to be the policy and purposes of the Congress under this Act—

(1) to conserve and manage the fisheries resources found off the coasts of the United States and the anadromous fisheries resources of the United States in the high seas by establishing an exclusive fisheries conservation and management zone in the area extending 200 nautical miles seaward of the United States within which the United States will assume management responsibility and authority over all fisheries resources, except highly migratory species, and by declaring fisheries management responsibility and authority on the high seas beyond such zone with respect to anadromous species;

(2) to support and encourage international measures for the conservation and management of highly migratory species on the basis of regulations consistent with the terms of any applicable international fisheries agreement;

(3) to promote the commercial and recreational fishing industries of the United States in order to maximize under sound conservation and management principles the production of food from the sea and the recreational opportunities of the American people;

(4) to establish management programs which will achieve and maintain an optimum sustainable yield from fisheries resources under circumstances which will enable the States, the fishing industry, consumer and environmental organizations and other interested persons to participate in or advise on the establishment of management plans and regulations, and in the development of such programs in regard to stocks of fish, to consider the social and economic needs of the coastal States along which such stocks abound;

(5) to permit foreign fishing within the fisheries zone established by title I of this Act consistent with the conservation requirements of the various stocks, if there are excess stocks of fish not being utilized to the optimum sustainable yield by United States commercial or recreational fishermen, after there is taken into account the efforts of United States fishermen to develop new and expanded fisheries, and the fact that certain stocks of fish which United States fishermen have been heavily dependent upon are now seriously depleted largely as a result of foreign fishing;

(6) to support and encourage continued active United States efforts to obtain an internationally acceptable treaty at the Third United Nations Conference on the Law of the Sea, and particularly to seek effective conservation of living ocean resources;

(7) to maintain without change the existing jurisdiction and rights of the United States in the Continental Shelf and the waters superjacent thereto for all purposes, other than the protection and conservation of fisheries resources as provided by this Act; and

(8) not to authorize any impediment to, or interference with, lawful activities on the high seas, except with respect to the protection and conservation of fisheries resources as provided by this Act.

SEC. 3. DEFINITIONS.

[Sec. 3]

For purposes of this Act—

(1) The term “anadromous species” means those species of fish which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters.

(2) The term “coastal species” means all species of fish other than any species referred to in paragraphs (1), (3), and (13) of this section.

(3) The term “Continental Shelf species” means any Continental Shelf fishery resource as defined in section 5(a) of the Act of May 20, 1964 (78 Stat. 196; 16 U.S.C. 1085(a)).

(4) The term “depleted”, when used with reference to any species of fish, means that a stock of the species has been so reduced, as a result of over-fishing or any other cause induced by man, or as a result of any natural cause, that a substantial reduction in fishing effort must be immediately achieved in order that the stock can replenish itself and once again provide an optimum sustainable yield.

(5) The term “fisheries zone” means the fisheries conservation and management zone established by title I of this Act.

(6) The term “fish” means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than birds or marine mammals.

(7) The term “fishery” means the business, organized activity, or act of fishing for a particular stock or species of fish (or for two or more stocks or species which are caught simultaneously or otherwise caught together) which by virtue of its geographical, scientific, technical, recreational, and economic characteristics is capable of being regulated as a unit.

(8) The term “fishing” means the catching, taking, harvesting, or attempted catching, taking, or harvesting, or any action which can reasonably be expected to result in the catching, taking, or harvesting, of fish for any purpose, and any activity at sea in support thereof.

(9) The term “fishing vessel” means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for—

(A) fishing; or

(B) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, supply, storage, refrigeration, transportation, or processing.

(10) The term “high seas” means all waters beyond the territorial sea of the United States.

(11) The term “international fisheries agreement” means any bilateral or multilateral treaty, convention, or agreement relating to fishing to which the United States is a party.

(12) The term “Marine Fisheries Commission” includes the Atlantic States Marine Fisheries Commission, the Gulf States Marine Fisheries Commission, and the Pacific Marine Fisheries Commission established by interstate compact.

(13) The term “highly migratory species” means any species of fish which spawn and migrate during their life cycle in waters of the high seas, in and outside the fisheries zone, including, but not limited to, tuna; but excluding halibut, sablefish, and herring.

(14) The term “optimum sustainable yield” means a yield which provides the greatest benefit to the United States as determined on the basis of the maximum sustainable yield of a stock or stocks of fish as modified by relevant ecological, economic, and social factors.

(15) The term "person" means any individual, corporation, partnership, or association (whether or not such individual is a citizen or national of the United States, or such entity is organized or existing under the laws of any State), and any government or entity thereof.

(16) The term "Secretary" means the Secretary of Commerce.

(17) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the possessions of the United States.

(18) The term "stock" means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.

(19) The term "United States" when used in a geographical context, means all the States thereof.

TITLE I—ESTABLISHMENT OF UNITED STATES FISHERIES CONSERVATION AND MANAGEMENT ZONE EXTENDING TO THE 200-MILE LIMIT

SEC. 101. ESTABLISHMENT OF FISHERIES CONSERVATION AND MANAGEMENT ZONE.

[Sec. 101]

There is hereby established a fisheries conservation and management zone (hereinafter referred to in this title as the "zone") contiguous to the territorial sea of the United States. The seaward boundary of the zone shall be a line drawn so that each point on the line is 200 nautical miles from the baseline from which the breadth of the territorial sea is measured.

SEC. 102. EXCLUSIVE RIGHTS OF UNITED STATES WITHIN ZONE.

[Sec. 102]

The United States will exercise the same exclusive rights in respect to fisheries in the zone as it has in its territorial sea. Fishing by foreign states within the zone will be permitted as may be recognized on or after July 1, 1976, by the United States pursuant to the provisions of this Act.

SEC. 103. ADJUSTMENT OF BOUNDARY.

[Sec. 101]

Whenever the President determines that a portion of the zone conflicts with the territorial waters or fisheries zone of another country, he may establish a seaward boundary for such portion of the zone in substitution for the seaward boundary described in section 101.

SEC. 104. STATE JURISDICTION.

[Sec. 306]

Nothing in this Act shall be construed—

(1) as extending the jurisdiction of any State to any natural resource beneath and in the waters within the zone;

(2) as diminishing the jurisdiction of any State over any natural resource beneath and in its internal waters; or

(3) except as may be provided pursuant to section 309, as diminishing the jurisdiction of any State to any natural resource beneath and in the waters of the territorial sea of the United States.

SEC. 105. REPEALER.

[Sec. 402]

The Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091–1094), is repealed.

SEC. 106. EFFECTIVE DATE.

[Sec. 104]

This title shall take effect July 1, 1976.

TITLE II—INTERNATIONAL FISHERIES AGREEMENTS

SEC. 201. FISHING BY FOREIGN VESSELS IN THE FISHERIES ZONE AND SEAWARD OF THE ZONE FOR MANAGED ANADROMOUS SPECIES.

[Sec. 201]

(a) PERMITS REQUIRED OF FOREIGN VESSELS. **[Sec. 204(a)]**—No fishing vessel, except a vessel documented under the laws of the United States or registered under the laws of any State, shall engage in fishing within the fishery zone, or

fishing seaward of the fishery zone for any anadromous species with respect to which a fishery management plan implemented pursuant to title III of this Act applies, unless such vessel has on board a valid permit issued by the Secretary pursuant to this section.

(b) **APPLICATION FOR PERMITS. [204(b)]**—Any foreign nation seeking a permit referred to in subsection (a) on behalf of one or more vessels registered under its flag may file an application therefor with the Secretary of State. Any application shall—

(1) state the name and official number of each fishing vessel for which a permit is sought;

(2) set forth the tonnage, capacity, speed, processing equipment, gear, and such other characteristics of each vessel as the Secretary may require;

(3) specify the species of fish for which the vessel or vessels will fish;

(4) specify the amount of fish or tonnage of catch contemplated;

(5) specify the ocean area in which, and the season or period during which, such fishing will be conducted; and

(6) set forth such other pertinent information as the Secretary may require.

(c) **TRANSMISSION OF APPLICATION FOR ACTION. [Sec. 204(b)(4)]**—Upon receipt of any application referred to in subsection (b), the Secretary of State shall—

(1) promptly transmit such application, together with his comments and recommendations thereon, to the Secretary, and

(2) transmit a copy of the application to the Secretary of the department in which the Coast Guard is operating.

(d) **TENTATIVE APPROVAL OF APPLICATION AND PREPARATION OF STATEMENT OF CONDITIONS AND RESTRICTIONS. [Secs. 204(b)(6); 204(b)(7)]**—Upon receipt of any application, and after consultation with the Secretary of the department in which the Coast Guard is operating with respect to enforcement and after taking into consideration the views and recommendations of the Secretary of State and the appropriate regional marine fisheries council, the Secretary, if he determines that the fishing activity proposed in the application is consistent with the policy and purposes of this Act and with the national fisheries management standards set forth in section 302(c), and after taking into account any traditional or historical patterns of fishing by the applicant nation for the species of fish covered in the application, shall tentatively approve the application (subject to the provisions of subsection (e)) and shall prepare a statement of the conditions and restrictions which will apply to the fishing in which the foreign vessels propose to engage and to which the foreign country must agree before any permit may be issued under this section. Any statement of conditions and restrictions shall include—

(1) any adjustment deemed necessary by the Secretary in the number of fishing vessels for which permits may be issued;

(2) if the vessels will engage in fishing for a species for which a fishery management plan has been implemented pursuant to title III of this Act (hereinafter referred to in this section as a "managed species") all requirements imposed by such plan;

(3) if the vessels will engage in fishing for other than a managed species, such conditions and restrictions with respect to tonnage, season, catch, gear requirements, and statistical reporting as the Secretary deems appropriate for the species concerned;

(4) enforcement conditions, including but not limited to—

(A) procedures which will apply with respect to the boarding and inspection of the vessels, including the requirement that the permit issued to any vessel pursuant to this section must be prominently displayed in the wheelhouse of the vessel and must be promptly surrendered to any officer authorized to enforce the provisions of this Act at the time of his boarding,

(B) requirements for on-board observers and reimbursement to the United States for the costs of such observers, and

(C) prepayment of any license fees which may be levied in the case of a managed species;

(5) in any case in which subsection (c) applies, a further condition that any other condition and restriction imposed pursuant to this subsection shall be provisionally applicable until such time as the fishery management plan is implemented and may be unilaterally amended by the Secretary after such implementation in such manner as may be necessary to conform them to the plan requirements; and

(6) any other conditions and restrictions which the Secretary deems necessary or appropriate.

(e) **SPECIAL CONSIDERATIONS IN CASE OF APPLICATION TO FISH FOR SPECIES FOR WHICH FISHERY MANAGEMENT PLAN IS BEING DEVELOPED** [Secs. 201(g) ; 204(b) (7)]—The Secretary may tentatively approve an application for fishing by foreign vessels for a species with respect to which a fishery management plan is being developed by a regional marine fisheries council or by the Secretary under title III of this Act only if the Secretary determines that the species is not depleted.

(f) **CONGRESSIONAL ACTION ON APPLICATION.** [Sec. 203]—An application tentatively approved by the Secretary, together with the statement of conditions and restrictions prepared by the Secretary pursuant to subsection (d)—

(1) shall be deemed, for the purposes of section 206, to be an international fisheries agreement; and

(2) shall be transmitted by the Secretary to the President for delivery to Congress pursuant to section 206(a)(1).

(g) **ISSUANCE OF PERMITS.** [Sec. 204(b) (11)]—If neither the House of Representatives nor the Senate disapproves an application pursuant to section 206, the Secretary of State shall transmit to the foreign nation concerned a statement of conditions and restrictions prepared by the Secretary with respect to the application. Upon acceptance of the conditions and restrictions by the foreign nation, the Secretary shall issue to the Secretary of State a permit for each fishing vessel entitled thereto. The Secretary of State shall promptly transmit the permits to the foreign nation for distribution to the operators of such vessels.

(h) **SUSPENSION OR REVOCATION OF PERMITS.** [Sec. 204(b) (12)]—

(1) **REPEATED VIOLATIONS.**—If the Secretary finds that any fishing vessel to which a permit is issued pursuant to this section has been repeatedly used in the commission of acts prohibited by section 310(2) for which civil penalties are assessed pursuant to section 311, the Secretary may suspend the permit for such period of time as he deems appropriate, or may revoke the permit.

(2) **FAILURE TO PAY ASSESSMENT.**—In any case in which any fishing vessel to which a permit is issued pursuant to this section—

(A) is used in the commission of any act prohibited by section 310(2) and is not seized pursuant thereto; and

(B) a civil penalty is assessed pursuant to section 311 for such act, the Secretary shall, if such assessment is not paid within a reasonable time after the date of the assessment, suspend the permit until such time as the assessment is paid.

(3) **PENALTY FOR FISHING DURING PERIOD OF PERMIT REVOCATION OR SUSPENSION.**—Any fishing by a foreign vessel in the fishery zone, or seaward of the fishery zone for any anadromous species with respect to which a fishery management plan is implemented pursuant to title III of this Act, during the period in which any permit issued pursuant to this section to such vessel is suspended or revoked pursuant to this subsection, shall be deemed to be a violation of the Act of May 20, 1964 (as amended by section 402 of this Act).

(i) **ISSUANCE OF WARNINGS.** [Sec. 204(b) (12)]—In any case in which any officer authorized to enforce the provisions of this Act finds that a fishing vessel to which a permit has been issued under subsection (g) has been operated in such a manner as to constitute a violation of a condition or restriction accepted by the foreign nation concerned but that such violation is, in his judgment, a minor infraction, the officer may, in lieu of citing the master of such vessel for violation of section 310(2), issue the master of the vessel a warning. Any warning issued pursuant to this subsection shall be noted in writing on the permit.

(j) **APPLICATION AND PERMIT FORMS.** [Sec. 204(b) (2)]—The Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form for applications submitted pursuant to subsection (b) and for permits issued pursuant to subsection (g). The form prescribed for permits shall provide for the inclusion of such information as may be necessary to inform officers authorized to enforce the provisions of this Act of those conditions and restrictions accepted pursuant to subsection (g) which apply to the vessel.

(k) **SPECIAL TREATMENT FOR FISHERY MANAGEMENT PLANS WHICH APPLY SEAWARD OF THE FISHERIES ZONE TO ANADROMOUS SPECIES.** [Sec. 102(2) ; 201(a) ; 202(a) (4) (B) ; 204(a)]—

(1) **PLANS DEEMED UNILATERAL CONSERVATION MEASURES.**—Any fishery management plan prepared pursuant to section 304 or 305(d) which in whole or part applies with respect to any anadromous species in any area of the high seas seaward of the fisheries zone shall be deemed to be a unilateral measure of conservation of the United States within the meaning of article 7

of the Convention on Fishing and Conservation of the Living Resources of the High Seas.

(2) **SUSPENSION OF TAKING EFFECT OF PLAN.**—Notwithstanding any other provision of this Act, no fishery management plan referred to in paragraph (1), to the extent that it applies seaward of the fisheries zone, shall enter into force and effect until the close of the 6-month period immediately following the date of the promulgation of the regulations necessary to implement the plan. During such 6-month period, the Secretary of State shall—

(A) enter into negotiations pursuant to such article 7 with the other contracting parties to such Convention for the purpose of securing the consent of the contracting parties to such plan and the regulations implementing such plan; and

(B) enter into such other bilateral or multilateral negotiations as may be appropriate in order to obtain the consent of any foreign nation to such plan and the regulations implementing such plan.

(3) **ENTERING INTO FORCE AND EFFECT OF PLAN.**—After the close of the 6-month period referred to in paragraph (2), the fishery management plan concerned, to the extent that it applies seaward of the fisheries zone, and the regulations implementing such plan shall have force and effect within the area seaward of the fisheries zone to which it applies.

(4) **SUSPENSION OF ENFORCEMENT BY THE UNITED STATES OF PLAN SEAWARD OF THE FISHERIES ZONE.**—If permits are issued pursuant to subsection (g) to fishing vessels of any foreign nation which authorizes them to engage in fishing for any anadromous species to which management plan referred to in paragraph (1) of this subsection applies, the United States shall not enforce the conditions and restrictions imposed with respect to such permits if the foreign nation gives written assurance to the Secretary of State that it will regulate such vessels in accordance with such conditions and restrictions. This paragraph shall only apply if, and during such time as, the Secretary, after consultation with the Secretary of State, finds that—

(A) the penalties imposed by the foreign nation on its vessels are equivalent to the penalties imposed pursuant to section 311 for violation of any such condition or restriction; and

(B) such foreign nation stringently assesses such penalties against its vessels or nationals which violate such conditions and restrictions.

(1) **CONTINENTAL SHELF SPECIES.** [Sec. 307(2)(B)]—Nothing in titles I, II, or III of this Act shall be construed to extend to any vessel not documented under the laws of the United States, or not registered under the laws of any State, the right or privilege to engage in fishing for any Continental Shelf species.

SEC. 202. TREATMENT OF CERTAIN EXISTING INTERNATIONAL FISHERIES AGREEMENTS.

(a) **APPLICATION OF ACT TO EXISTING AGREEMENTS.** [Sec. 201(b)]—No international fisheries agreement other than an agreement which is a treaty within the meaning of section 2 of article II of the Constitution, which is in effect on July 1, 1976, and which pertains to fishing in the waters described in title I of this Act or which pertains to species or stocks of fish, or fisheries, with respect to which the United States may exercise management and conservation authority pursuant to this Act, shall be extended or renewed except pursuant to this Act.

(b) **RENEGOTIATION OF TREATIES.** [Sec. 202(b)]—The Secretary of State, in consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, shall initiate promptly after the date of the enactment of this Act, the renegotiation of all treaties within the meaning of section 2 of article II of the Constitution which pertain to fishing in the waters described in title I of this Act or which pertain to species, or stocks of fish, or fisheries, with respect to which the United States may exercise management and conservation authority pursuant to this Act, in order to conform such treaties to the provisions and requirements of this Act.

(c) **REPORTS TO CONGRESS.** [Sec. 203]—The Secretary of State shall submit to the Congress a written report on or before May 15, 1976, and annually thereafter, on the results of the negotiations which he is required to initiate under subsection (b).

SEC. 203. NEGOTIATIONS TO PRESERVE CERTAIN UNITED STATES FOREIGN FISHING RIGHTS.

(a) **COMMENCEMENT OF NEGOTIATIONS.** [Sec. 202(a)]—Within 90 days after the date of enactment of this Act, the Secretary of State shall commence negotiations with each foreign nation, off of whose coast United States vessels are

engaged in fishing for specific stocks of fish, for the purpose of entering into an international fishery agreement under which such foreign nation will grant to United States vessels equitable access, consistent with reasonable management and conservation practices, to such fish stocks within 200 nautical miles off the coast of such nation.

(b) ACTION IF FOREIGN NATION REFUSES TO NEGOTIATE OR VIOLATES TREATY. [Sec. 205]—

(1) If the Secretary of State determines that—

(A) any foreign nation is refusing to commence negotiations, or fails to negotiate in good faith, with the United States in order to achieve the purpose of subsection (a); or

(B) although an international fishery agreement which achieves the purpose of subsection (a) is in force and effect, the foreign nation is not complying with its obligations under the agreement,

he shall certify that determination to the Secretary of the Treasury. Upon receipt of any such certification, the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the customs territory of the United States of any seafood product of that foreign nation.

(2) For purposes of this subsection, any seizure of a United States vessel which is reimbursable under section 3 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1972) that is made by any foreign nation off whose coast United States vessels are engaged in fishing for specific stocks of fish shall—

(A) if no international fisheries agreement achieving the purpose of subsection (a) is in force and effect, be deemed to be a refusal by that nation to commence negotiations, or failure by that nation to negotiate in good faith, within the meaning of paragraph (1)(A) of this subsection, or

(B) if such an agreement is in force and effect, be deemed to be noncompliance by that nation with its obligations under that agreement within the meaning of paragraph (1)(B) of this subsection,

and the Secretary of State shall immediately make the appropriate certification to the Secretary of the Treasury required by paragraph (1) of this subsection.

(c) DURATION OF IMPORT PROHIBITION. [Sec. 205(c)]—Any import prohibition which is imposed pursuant to subsection (b) shall remain in effect—

(1) if the prohibition was imposed by reason of subsection (b)(1), until such time as the Secretary of State certifies to the Secretary of the Treasury that an international fisheries agreement which achieves the purposes of subsection (a) has entered into force and effect between the United States and that foreign nation; or

(2) if the prohibition was imposed by reason of subsection (b)(2), until such time as the Secretary of State certifies to the Secretary of the Treasury that the foreign nation is complying with its obligations under the international fishery agreement.

(d) DEFINITION. [Sec. 205(d)]—For purposes of this section, the term “seafood product” means any fish which is the product of a foreign nation, and any article which is the product of such nation and which is composed in whole or part of any fish which is the product of such nation; but excludes during the period of any import prohibition imposed pursuant to subsection (b) any such fish or article if the fish or fish constituting the article are harvested by United States vessels, irrespective of point of harvesting or offloading.

SEC. 204. [SEC. 202(a)(4)(B)] NEGOTIATIONS REGARDING HIGHLY MIGRATORY SPECIES.

The Secretary of State, upon the request of, and in cooperation with, the Secretary, shall initiate and conduct negotiations with any foreign nation participating in a fishery for any highly migratory species for the purpose of entering into international fisheries agreements that would establish an appropriate international fisheries organization having authority to manage and conserve such highly migratory species.

SEC. 205. [SEC. 401] MULTILATERAL CONVENTION.

If the United States ratifies a multilateral convention resulting from any United Nations Conference on the Law of the Sea which contains provisions with respect to the breadth of the territorial sea and the fisheries or economic zone, the Secretary, in consultation with the Secretary of State, may promulgate pursuant to section 307 such changes, if any, in the regulations issued pursuant to this Act as may be necessary or desirable to conform such regulations with the provisions

of such convention in anticipation of the date when such convention shall come into force and effect or otherwise be applicable to the United States.

SEC. 206. [SEC. 203] CONGRESSIONAL DISAPPROVAL OF CERTAIN INTERNATIONAL FISHERIES AGREEMENTS.

(a) **TAKING EFFECT OF INTERNATIONAL FISHERIES AGREEMENTS.**—Any international fishery agreement (other than an agreement which is a treaty within the meaning of section 2 of article II of the Constitution) entered into after the date of the enactment of this Act, and any amendment entered into after such date to any international fishery agreement entered into before such date, shall enter into force and effect with respect to the United States if (and only if)—

(1) the President delivers a copy of the agreement to the House of Representatives and a copy to the Senate; and

(2) before the close of the 60-day period which begins on the day on which copies of such agreement are delivered to the House of Representatives and to the Senate, neither the House of Representatives nor the Senate adopts, by an affirmative vote of the majority of those present and voting in that House, a resolution of disapproval.

(b) **RESOLUTION OF DISAPPROVAL.**—For purposes of this section, the term "resolution of disapproval" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the does not favor the taking effect of the international fishery agreement transmitted to the Congress by the President on _____", the first blank space therein being filled with the name of the resolving House and the second blank space therein being filled with the day and year.

(c) **PROCEDURE IN EACH HOUSE.**—

(1) A resolution of disapproval in the House of Representatives shall be referred to the Committee on Merchant Marine and Fisheries. A resolution of disapproval in the Senate shall be referred to the Committee on Commerce.

(2)(A) If the committee to which a resolution of disapproval has been referred has not reported it at the end of 7 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution of disapproval of the same international fishery agreement which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution of disapproval), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution of disapproval of the same international fishery agreement.

(3)(A) When the committee has reported, or has been discharged from further consideration of, a resolution of disapproval, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate on the resolution of disapproval shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(4)(A) Motions to postpone, made with respect to the discharge from committee or the consideration of a resolution of disapproval, and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives or the Senate, as the case may be, to the procedure relating to any resolution of disapproval shall be decided without debate.

(5) Whenever the President transmits copies of any international fisheries agreement to the Congress, a copy of such agreement shall be delivered to

each House of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

(6) This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions of disapproval described in subsection (b); and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

TITLE III—MANAGEMENT OF THE FISHERIES

SEC. 301. UNITED STATES JURISDICTION OVER CERTAIN FISHERIES.

(a) **IN GENERAL.** [Sec. 102]—The fisheries management responsibility and authority of the United States extends to—

[Sec. 102(1)] (1) any coastal species within the fisheries zone;

[Sec. 102(2)] (2) any anadromous species wherever found throughout the range of such species in the high seas; and

[Sec. 102(3)] (3) any Continental Shelf species.

(b) **INTERNATIONAL REGULATION OF HIGHLY MIGRATORY SPECIES.** [Sec. 103]—The fisheries management responsibility and authority of the United States under this Act does not extend to highly migratory species, and the United States shall not recognize the right of any foreign country to extend its rights, claims, or jurisdiction to such species. Such species shall be managed pursuant to international fishery agreements established for such purpose.

SEC. 302. FISHERIES MANAGEMENT RESPONSIBILITIES OF THE SECRETARY

(a) **IN GENERAL.** [Sec. 304]—Subject to the provisions of this Act, the Secretary shall manage all fisheries over which the United States has fishery management responsibility and authority under section 301(a). The management of any such fishery shall result in the regulation of fishing in that fishery by any vessel documented under the laws of the United States or registered under the laws of any State and by any other vessel in such manner as is necessary and appropriate to carry out the policy and purposes of this Act.

(b) **MANAGEMENT PURSUANT TO MANAGEMENT PLAN.** [Sec. 304(c)]—Except as provided in section 305(d) or 308, the Secretary may not manage any fishery under the authority of subsection (a) except in accordance with a management plan which is prepared pursuant to section 304 for such fishery.

(c) **NATIONAL FISHERIES MANAGEMENT STANDARDS.** [Sec. 301]—The management of the fisheries pursuant to this Act shall be consistent with the following national fisheries management standards:

(1) Management and conservation measures shall be based upon the best scientific biological information available.

(2) To the extent possible, an individual stock of fish shall be managed throughout its range.

(3) Management and conservation measures shall not discriminate between residents of different States.

(4) Management and conservation measures shall be designed to achieve the optimum sustainable yield of a stock of fish on a continuing basis.

(5) Management and conservation measures shall promote efficiency in harvesting techniques.

(6) Management and conservation measures shall be formulated to allow for unpredicted variations in fishery resources and their environment and for possible delay in the application of such measures.

(7) Management and conservation measures shall not result in unreasonable administration or enforcement costs.

(8) Management and conservation measures shall be designed to prevent depletion of fisheries resources.

SEC. 303. REGIONAL MARINE FISHERIES COUNCILS.

(a) **ESTABLISHMENT.** [Sec. 302(a)]—There are established seven regional marine fisheries councils to be known respectively as the **New England Marine Fisheries Council**, the **Mid-Atlantic Marine Fisheries Council**, the **Southern Atlantic Marine Fisheries Council**, the **Gulf Marine Fisheries Council**, the **Pacific Marine Fisheries Council**, the **Alaska Marine Fisheries Council**, and the **Western Pacific Marine Fisheries Council** (hereinafter referred to in this Act as the "Council" or the "Councils"). The States represented by each respective Council shall be as follows:

New England Marine Fisheries Council

Maine;
New Hampshire;
Massachusetts;
Rhode Island; and
Connecticut.

Mid-Atlantic Marine Fisheries Council

New York;
New Jersey;
Delaware;
Pennsylvania;
Maryland; and
Virginia.

Southern Atlantic Marine Fisheries Council

North Carolina;
South Carolina;
Georgia;
Florida;
The Commonwealth of Puerto Rico; and
The Virgin Islands.

Gulf Marine Fisheries Council

Texas;
Louisiana;
Mississippi;
Alabama;
Florida;
The Commonwealth of Puerto Rico; and
The Virgin Islands.

Pacific Marine Fisheries Council

California;
Oregon;
Washington; and
Idaho.

Alaska Marine Fisheries Council

Alaska;
Oregon; and
Washington.

Western Pacific Marine Fisheries Council

Hawaii;
American Samoa; and
Guam.

(b) **MEMBERSHIP OF COUNCILS.**—

(1) **NUMBER AND APPOINTMENT.** [Sec. 302(b); 302(c)]—Each Council established by subsection (a) shall consist of the following members:

(A) the Executive Director of the Marine Fisheries Commission for the geographical area concerned;

(B) one member appointed by, and serving at the pleasure of, the Governor or chief executive officer of each State represented on the Council; except that in the case of the Alaska Marine Fisheries Council, three members appointed by the Governor of Alaska;

(C) the Regional Director of the National Marine Fisheries Service for the geographical area concerned;

(D) the Regional Director of the United States Fish and Wildlife Service for the geographical area concerned;

(E) six members (other than officers or employees of the Federal Government or of any State government) appointed by the Secretary from a list prepared by the members specified in subparagraphs (A), (B), (C), and (D) of this paragraph of not less than 20 individuals having knowledge and experience in commercial or recreational fishing, and such appointments shall fairly reflect the degree to which commercial and recreational fishermen participate in the fisheries in the geographical area concerned; and

(F) two members (other than officers or employees of the Federal Government or of any State government or individuals referred to in subparagraph (E)) who shall represent the public interest and who shall be appointed by the Secretary from a list prepared by the members specified in subparagraphs (A), (B), (C), and (D) of this paragraph of not less than six individuals.

A vacancy in any Council shall be filled in the manner in which the original appointment was made.

(2) **CONTINUATION OF MEMBERSHIP. [Sec. 302(b)]**—If any member of any Council who was appointed to such Council pursuant to paragraph (1) (A), (C), or (D) leaves the office he is holding at the time of appointment, or if any member of any Council who was appointed from persons who are not officers or employees of any government becomes an officer or employee of any government, he may continue as a member of such Council for not longer than the 90-day period beginning on the date he leaves that office or becomes such an officer or employee, as the case may be.

(3) **TERMS. [Sec. 302(b)]**—

(A) Except as provided in subparagraphs (B) and (C) of this paragraph, any member appointed pursuant to paragraph (1) (E) or (F) shall be appointed for a term of 3 years.

(B) Of the members first appointed pursuant to paragraph (1) (E)—
 (i) two shall be appointed for a term of 1 year,
 (ii) two shall be appointed for a term of 2 years, and
 (iii) two shall be appointed for a term of 3 years,
 as designated by the Secretary at the time of appointment.

(C) Of the members first appointed pursuant to paragraph (1) (F)—
 (i) one shall be appointed for a term of 2 years; and
 (ii) one shall be appointed for a term of 3 years,
 as designated by the Secretary at the time of appointment.

(D) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(E) Any individual appointed pursuant to paragraph (1) (E) or (F) is eligible for reappointment.

(c) **PAY AND TRAVEL EXPENSES. [Sec. 302(d)]**—

(1) **PER DIEM RATE.**—Members of each Council, other than members who are full-time officers or employees of the United States or any State, shall each be entitled to receive \$100 for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council.

(2) **TRAVEL EXPENSES.**—While away from their homes or regular places of business in the performance of services for any Council, the members thereof shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(d) **TRANSACTION OF BUSINESS. [Sec. 302(e)]**—

(1) **QUORUM.**—A majority of the members of any Council shall constitute a quorum, but a lesser number may hold hearings.

(2) **CHAIRMEN.**—A Chairman for each Council shall be elected by the members of each Council from among members appointed pursuant to subsection (b)(1) (B), (E), (F).

(3) **MEETINGS.**—Each Council shall meet at the call of the Chairman or a majority of its members, but shall meet for at least 1 day during each calendar quarter.

(e) **STAFF AND ADMINISTRATION.** [Sec. 302(f)]—

(1) **COUNCIL STAFF.**—The Secretary shall make available to each Council such staff, information, and personnel services as it may reasonably require to carry out its functions.

(2) **DETAIL OF FEDERAL PERSONNEL.**—Upon request of any Council, and after consultation with the Secretary, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist it in carrying out its functions under this Act.

(3) **SUPPORT SERVICES.**—The Administrator of General Services, after consultation with the Secretary, shall provide to any Council on a reimbursable basis such administrative support services as the Council may request.

(4) **STATEMENT OF ORGANIZATION.**—Each Council, after consultation with the Secretary, shall publish and make available to the public a statement of the organization, procedure and practices of the Council.

(f) **ADVISORY PANELS.** [Sec. 302(g)]—Each Council may establish advisory panels to assist the Council in carrying out its functions under this Act.

(g) **FUNCTIONS.** [Sec. 302(h)]—

(1) **IN GENERAL.**—Each Council shall—

(A) solicit, by means of public hearings to the extent practicable, and evaluate on a continuing basis comments and recommendations from all interested persons in the geographical area concerned with respect to the administration and implementation of the provisions of this Act;

(B) develop fishery management plans pursuant to section 304 for adoption by the Secretary, and take such other actions with respect to fishery management plans as may be required by such section; and

(C) submit to the Secretary, within 30 days after the close of each calendar quarter, a report setting forth the results of the Council's activities under this Act during such quarter.

(2) **STATEMENTS OF DISAGREEMENT.**—If any matter submitted to the Secretary pursuant to subparagraph (B) or (C) of paragraph (1) did not receive the unanimous vote of the Council, the members of the Council in disagreement may submit to the Secretary a statement setting forth the reasons for their disagreement.

SEC. 304. [Sec. 303] **PREPARATION OF FISHERY MANAGEMENT PLANS BY COUNCILS.**

(a) **PLANS PREPARED ON INITIATIVE OF COUNCIL OR AT REQUEST OF SECRETARY.**—

(1) **ON INITIATIVE OF COUNCIL.**—Any Council may at any time prepare a fishery management plan with respect to any species referred to in section 301(a).

(2) **AT REQUEST OF SECRETARY.**—The Secretary may request any Council to prepare a fishery management plan with respect to any species referred to in section 301(a).

(3) **APPLICATION OF PLANS.**—Any fishery management plan prepared pursuant to paragraph (1) or (2) shall be limited to species in the fisheries zone (and seaward of the zone in the case of anadromous species and Continental Shelf species) adjacent to the States represented on the Council. In any case in which the range of a species includes waters within the fisheries zone which are adjacent to States represented on more than one Council, the Secretary shall designate which Council shall prepare the fishery management plan.

(b) **SCOPE OF MANAGEMENT PLANS.**—

(1) **IN GENERAL.**—Any fishery management plan which is prepared by any Council shall—

(A) contain the conservation and other measures which the Council deems appropriate with respect to the management of the species or the fishery concerned; and

(B) specify such conditions and limitations governing fishing by any vessel documented under the laws of the United States or registered under the laws of any State, or by any other vessel, which the Council believes should be implemented to carry out such measures within the territorial sea of the United States, the fisheries zone, and, in the case of any anadromous species or Continental Shelf species, in waters seaward of such zone.

(2) **INFORMATION WITH RESPECT TO RELEVANT INTERNATIONAL OBLIGATIONS.**—Any Council which is preparing a fishery management plan on its own initiative shall request the Secretary to provide and the Secretary when requesting any Council to prepare any such plan shall provide, to the Council such information as may be appropriate with respect to those international fisheries agreements and any other pertinent information relating to foreign fishing which apply, or may apply, within the fisheries zone and in waters seaward of such zone with respect to the fishery covered by the plan.

(3) **SPECIFIC PLAN REQUIREMENTS.** [Secs. 303(a) ; 303(b)]—Any fishery management plan prepared by any Council may—

(A) designate zones where, and designate periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified vessels or with specified gear;

(B) establish a system under which access to the fishery shall be limited in order to achieve optimum sustainable yield on a basis which may recognize, among other considerations, present participation in the fishery or fisheries, historical fishing practices and dependence on the fishery, value of existing investments in vessels and gear, capability of existing vessels to engage in other fisheries, history of compliance with fisheries regulations imposed pursuant to this Act, and the cultural and social framework in which the fishery is conducted;

(C) establish limitations on the catch of fish based on area, species, size, number, weight, sex, incidental catch, total biomass, and other factors necessary to carry out the policy and purposes of this Act, including the size or number or nature of the vessels or gear used in such catch;

(D) prohibit, limit, condition, or require the use of specified types of fishing gear, vessels, or equipment for such vessels, including devices which may be required solely or partially to facilitate enforcement of the provisions of this Act;

(E) specify those licenses, permits, or fees (the amount of which may vary between domestic and foreign fishermen, between different categories of domestic fishermen, or between different categories of foreign fishermen) which should be required as a condition to engaging in any fishery or other activity regulated pursuant to this Act;

(F) require the submission to the Secretary of pertinent statistics, including but not limited to information regarding type of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, and number of hauls; and

(G) prescribe such other limitations or requirements as the Council deems necessary and appropriate to carry out the purposes of this Act.

(4) **CONFIDENTIALITY OF STATISTICS.** [Sec. 303(d)]—Statistics which are required to be submitted to the Secretary by persons pursuant to paragraph (3) (F) shall be confidential (except when required under court order) and the Secretary shall by regulation prescribe such procedures as may be necessary to preserve such confidentiality. Such statistics may be released or made public in any aggregate or summary form which does not directly or indirectly disclose the identity or business of such persons.

(5) **PROPOSED REGULATIONS.** [Sec. 303(c)]—Any Council may prepare such proposed regulations as it deems necessary and appropriate to carry out any fishery management plan prepared by it and the Secretary shall take such regulations into account when developing proposed regulations to be promulgated pursuant to section 307.

SEC. 305. [Sec. 304] REVIEW, ADOPTION, OR OTHER ACTION BY SECRETARY REGARDING FISHERY MANAGEMENT PLANS.

(a) **ACTION BY SECRETARY AFTER RECEIPT OF PLAN.** [Sec. 304(a)]—Upon receipt of any fishery management plan prepared by any Council, the Secretary, within 60 days after the date on which the plan is received, shall—

(1) review the plan as provided for in subsection (c);

(2) notify in writing the Council of his approval, partial approval, or disapproval of the plan; and

(3) in the case of partial approval or disapproval of the plan, include with such notification his objections thereto and the reasons therefor, and request the Council to amend the plan within 45 days.

(b) **AMENDED PLAN.** [Sec. 304(a)]—Within 30 days after receiving an amended fishery management plan requested by him pursuant to subsection (a) (3), the Secretary shall notify in writing the Council of his approval or disapproval and, in the case of disapproval, his reasons therefor.

(c) **REVIEW OF PLANS.** [Sec. 304(b)] The Secretary shall review any fishery management plan submitted to him by any Council. In carrying out such review the Secretary shall—

(1) consider existing and projected population levels of the fish involved;

(2) evaluate the need for, and the extent to which, the plan will contribute to the conservation and management of such fish;

(3) consider existing fishery management programs, statistics, and data relating to such fish;

(4) if the plan will apply to foreign fishing vessels beyond the fisheries zone, consult with the Secretary of State;

(5) examine and evaluate the management procedures proposed in the plan in order to determine if the regulation of the fishery concerned in the fisheries zone will be consistent on an interstate basis and consistent with the management procedures which are in effect in the territorial sea of the United States;

(6) if the plan or proposed regulations involve methods and procedures for enforcement at sea, consult with the Secretary of the department in which the Coast Guard is operating;

(7) consult with other Federal agencies, the commercial and recreational fishing industries, and, to the extent practicable, any other person having an interest in the conservation of the fish involved and in the enhancement of the marine fisheries of the United States;

(8) analyze the proposed plan in order to determine whether it is consistent with the national fisheries management standards set forth in section 302(c); and

(9) consider such other relevant factors as he deems necessary and appropriate to carry out the purposes of this Act.

(d) **PREPARATION OF PLANS BY SECRETARY.** [Sec. 304(c)]—If any Council which is requested by the Secretary to prepare a fishery management plan fails to do so within such reasonable time as shall be specified by the Secretary, or if the Secretary disapproves an amended plan under subsection (b) and he determines that such a plan is needed, then the Secretary shall prepare a fishery management plan for the fishery concerned. The fishery management plan requirements set forth in section 304(b) apply with respect to any plan prepared by the Secretary.

SEC. 306. LICENSE FEES.

(a) **DEFINITION.** [Secs. 204(b) (10) ; 304(d)]—As used in this section, the term "license fee" means any fee which is imposed on any person under any fishery management plan implemented under this Act for the privilege of fishing.

(b) **COLLECTION BY SECRETARY.** [Secs. 204(b) (10) ; 303(b) (1) ; 304(d)] All license fees imposed under any fishery management plan implemented under this Act shall be collected by the Secretary.

(c) **CREDIT OF LICENSE FEES TO SEPARATE TREASURY ACCOUNT.**—

(1) **ESTABLISHMENT OF ACCOUNT.** [Secs. 204(b) (10) ; 304(d)]—There is established in the Treasury of the United States a separate account into which all license fees collected by the Secretary shall be credited.

(2) **FEES COLLECTED FROM FOREIGN FISHERMEN.** [Sec. 204(b) (10)]—Ten percent of all the license fees collected by the Secretary pursuant to any fisheries management plan from foreign fishermen shall be credited to the account established in paragraph (1) of this subsection and shall remain available without fiscal year limitation to carry out the purposes of subsection (d).

(3) **OTHER FEES.** [Sec. 304(d)]—All license fees collected by the Secretary pursuant to any fishery management plan (other than the license fees referred to in paragraph (2) of this subsection) shall be credited to the account established in paragraph (1) of this subsection and shall remain available to carry out the purposes of subsection (e).

(d) **REIMBURSEMENT OF CERTAIN FOREIGN FEES IMPOSED ON UNITED STATES FISHERMEN.**—

(1) **FEES ELIGIBLE FOR REIMBURSEMENT.** [Sec. 304(d)]—The Secretary, under such regulations as he shall prescribe, shall reimburse any owner or

operator of a United States fishing vessel for all or part of any license or permit fee which is imposed on such owner or operator by any foreign nation for the privilege of fishing in waters under the jurisdiction of that nation if—

(A) the United States recognizes the jurisdiction of that nation over fisheries conservation and management in such waters; and

(B) United States vessels have fished or carried out fishing-support activities in such waters.

(2) **LIMITATION ON REIMBURSEMENT.** [Sec. 304(d)]—The Secretary shall reimburse any owner or operator of a United States fishing vessel under paragraph (1) of this subsection for the amount by which the license or permit fee imposed by the foreign nation exceeds the average license fee imposed under all fishery management plans implemented under this Act. Such average license fee shall be computed on the basis of all such license fees in effect at the time such foreign fee was imposed.

(3) **REIMBURSEMENT FUNDING.** [Sec. 304(d)]—Reimbursement by the Secretary under paragraph (1) of this subsection shall be made first out of the fees credited pursuant to subsection (c) (2), and thereafter out of funds which are hereby authorized to be appropriated to carry out the purposes of this subsection.

(e) **FISHERY RESEARCH AND DEVELOPMENT.** [Sec. 304(e)]—All license fees collected under any fishery management plan and credited pursuant to subsection (c) (3) shall be used by the Secretary to carry out stock assessment and such other research and development which the Secretary deems appropriate with respect to the fishery resources within the geographical area of responsibility of the Council concerned.

SEC. 307. [SEC. 305] IMPLEMENTATION OF FISHERY MANAGEMENT PLANS.

(a) **IN GENERAL.** [Sec. 305(a)]—After the Secretary has approved any fishery management plan prepared by any Council or prepared by him, the Secretary shall, as soon as practical thereafter publish in the Federal Register the plan and all regulations which he proposed to promulgate in order to implement the plan. Interested persons shall be afforded a period of not less than 45 days after such publication within which to submit written data, views, or comments on the proposed regulations. Except as provided in subsection (b), the Secretary may, after the expiration of such period and after consideration of all relevant matters presented, promulgate the regulations with such modifications, if any, as he deems appropriate.

(b) **OBJECTION TO PROPOSED REGULATIONS.** [Sec. 305(a) (2)]—On or before the last day of a period fixed for the submission of written data, views, or comments under subsection (a), any citizen (which for purposes of this section means any individual, corporation, partnership, or other legal entity domiciled in any State) who, or any State which, may be adversely affected by the plan or the proposed regulations may file with the Secretary written objections to specific provisions of the plan or the proposed regulations, stating the grounds therefor, and may request a public hearing on such objections. If the Secretary determines that the citizen filing objections may be adversely affected and such citizen has requested a hearing, or if a State requests a hearing, the Secretary shall not promulgate the regulations except as provided for by subsection (c).

(c) **HEARINGS AFTER OBJECTION.** [Sec. 305(b)]—As soon as practicable after the period of filing objections has expired, if the Secretary determines that any citizen of the United States filing objections may be adversely affected and such citizen has requested a hearing, or if a State requests a hearing, the Secretary shall publish in the Federal Register a notice specifying the time and place of which a public hearing shall be held, the provisions of the proposed regulations to which such objections have been filed, and such other provisions as he may designate for consideration. The Secretary thereafter shall hold a public hearing in accordance with section 553 of title 5, United States Code, for the purpose of receiving information relevant to the matters identified in the notice of hearing. If two or more citizens of the United States or States request hearings within the prescribed period and the Secretary deems such hearing appropriate, the Secretary may consolidate such hearings in the interest of time and economy. At the hearing any interested citizen or State may be heard. As soon as practicable after the completion of the hearing, the Secretary shall act upon such objections, make his determinations public (including a statement of his reasons therefor), and promulgate the regulations with such modifications, if any, as he deems appropriate.

(d) **REVISION OF REGULATIONS [Sec. 305(g)]**—The Secretary may from time to time revise any regulation promulgated pursuant to this section in accordance with the procedures prescribed in subsections (a) through (c).

(e) **EMERGENCY REGULATIONS. [Sec. 305(e)]**—Notwithstanding subsections (a), (b), and (c), the Secretary may waive, if the Council concerned consents, by the affirmative vote of not less than two-thirds of the membership of the Council, to such waiver, the requirements for notice and public hearing set forth in such subsections with respect to any regulation implementing any fishery management plan if he finds (and incorporates the finding and a brief statement of the reasons therefor in the publication of the regulation) that, due to an emergency situation arising with respect to the fishery concerned, notice and hearing thereon are impracticable, unnecessary, or contrary to the public interest. Written objections to such procedure may be submitted within 30 days after the effective date of any such emergency regulation. If any such written objection is so received, the Secretary shall, not later than 40 days after such effective date, initiate the procedures set forth in subsections (a), (b), and (c). Any emergency regulation promulgated pursuant to this subsection shall remain in effect for one year after the date on which the Secretary publishes notice of proposed rule-making required by subsection (a), unless the Secretary terminates such regulation by notice in the Federal Register at any earlier date.

SEC. 308. [SEC. 305(e)] TEMPORARY EMERGENCY FISHERY MANAGEMENT PLANS PREPARED AND IMPLEMENTED BY THE SECRETARY WITH RESPECT TO CERTAIN FISHERIES.

(a) **IN GENERAL.**—Before the close of the 90-day period beginning on the date of the enactment of this Act, and without regard to sections 304 through 307 except as provided in subsection (d) of this section, the Secretary, on his own initiative or upon the request of any State, shall with respect to any coastal species or Continental Shelf species which he believes to be, as of the date of the enactment of this Act, (1) depleted, (2) in imminent danger of becoming depleted, or (3) under intensive use but unregulated because of the absence of management authority—

(A) prepare, after consultation with appropriate States and fishing industry representatives, a management plan, which shall apply within those waters which comprise the contiguous fisheries zone established by the first section of the Act of October 14, 1966, for the fishery; and

(B) promulgate such regulations as may be necessary and appropriate to implement such plan.

(b) **INTERIM REPORT.**—Before the close of the 45-day period beginning on the date of the enactment of this Act, the Secretary shall submit to the Congress a report which sets forth those fisheries which he will take action on pursuant to subsection (a).

(c) **PLAN REQUIREMENTS.**—The Secretary, in preparing any plan required by subsection (a), shall include such requirements set forth in section 304(b)(3) as he deems to be necessary and appropriate with respect to the fishery concerned, but may not, pursuant to such plan, impose limited entry or license fees on vessels documented under the laws of the United States or otherwise registered under the laws of any State in any area of the waters comprising such contiguous fisheries zone.

(d) **TREATMENT OF REGULATIONS.**—Any regulation which is promulgated by the Secretary to implement any fishery management plan prepared pursuant to this section shall be treated as an emergency regulation promulgated under section 307(e) except that any such regulation shall remain in effect for 180 days after the date on which the regulation is promulgated unless the Secretary terminates such regulation at an earlier date.

SEC. 309. [SEC. 306] STATE JURISDICTION.

(a) **IN GENERAL.**—Except as provided in subsection (b), nothing in this Act shall be construed as extending or diminishing the jurisdiction of any State seaward of the coastline of the United States.

(b) **ASSERTION OF FEDERAL JURISDICTION IN CERTAIN INSTANCES.**—

(1) **FINDINGS.**—The Congress finds that anadromous species, certain coastal species, and certain Continental Shelf species move, during their life cycles, within waters over which more than one State has jurisdiction,

and move from such waters to waters that are not within the jurisdiction of any State. The Congress further finds that, although the purpose of this Act is not to affect State jurisdiction over fish principally within waters under State jurisdiction, there may be instances where Federal regulation within such waters of any anadromous species, coastal species, or Continental Shelf species may be necessary in order to insure the effectiveness of a management plan implemented under this Act for a fishery.

(2) **FINDINGS AND ACTION BY SECRETARY.** [Sec. 306(b)(1)]—If the Secretary finds, after notice and opportunity for agency hearing, that—

(A) any fishery management plan implemented pursuant to this Act applies to any anadromous species, coastal species, or any Continental Shelf species which are to any extent, or are at any time, under the jurisdiction of any State; and

(B) such State has taken any action, or omitted to take any action, the result of which will substantially and adversely affect the carrying out of the management plan which applies to a fishery, the Secretary shall promptly declare that such fishery within waters, other than internal waters, under jurisdiction of the State shall be subject to regulation by him pursuant to the management plan, and the Secretary, as soon as practicable thereafter, shall assume responsibility for such regulation.

(c) **RESUMPTION OF STATE REGULATION.** [Sec. 306(b)(2)]—If the Secretary, pursuant to subsection (b), assumes responsibility for the regulation of any fishery within waters under the jurisdiction of any State, the State may at any time thereafter apply to the Secretary for reinstatement of State regulation of such fishery. If the Secretary finds, after notice and opportunity for agency hearing, that the reasons for which regulation of the fishery by him was assumed no longer prevail, the Secretary shall promptly declare such fishery to be subject to regulation by the State within that State's waters pursuant to the fishery management plan.

SEC. 310. [SEC. 307] PROHIBITED ACTS.

It is unlawful for any person—

(1) to violate any provision of this Act or any regulation promulgated under this Act to carry out any fishery management plan implemented pursuant to this Act;

(2) if fishing pursuant to a permit issued under section 201(g), to violate any condition or restriction accepted by the foreign nation concerned pursuant to that section in regard to the permit;

(3) to refuse to permit any authorized representative of the Secretary, or of the Secretary of the Department in which the Coast Guard is operating, to board any fishing vessel under the control of such person if the purpose of the requested boarding is to carry out any inspection relating to the enforcement of this Act, any regulation referred to in paragraph (1), or any condition or restriction referred to in paragraph (2);

(4) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized representative of the Secretary, or of the Secretary of the Department in which the Coast Guard is operating, who is engaged in any reasonable inspection of a kind referred to in paragraph (3); or

(5) to ship, transport, purchase, offer for sale, import, export, or have in custody, possession, or control any fish taken in violation of this Act any regulation referred to in paragraph (1), or any condition or restriction referred to in paragraph (2).

SEC. 311. [SEC. 308] CIVIL PENALTIES.

(a) **ASSESSMENT OF PENALTY.** [Sec. 308(a)]—Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by paragraph (1), (2), or (5) of section 310 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(b) **REVIEW OF CIVIL PENALTY.** [Sec. 308(b)]—Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2) of title 5, United States Code.

(c) **ACTION UPON FAILURE TO PAY ASSESSMENT.** [Sec. 308(c)]—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) **COMPROMISE OR OTHER ACTION BY SECRETARY.** [Sec. 308(d)]—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

SEC. 312. [SEC. 309] CRIMINAL PENALTIES.

Any person who commits any act prohibited by paragraph (3) or (4) of section 310 shall be fined not more than \$50,000; except that if such person uses a deadly or dangerous weapon in the commission of any such act, such person shall be fined not more than \$100,000, or imprisoned for not more than 10 years, or both.

SEC. 313. [SEC. 310] FORFEITURE.

(a) **APPLICATION FOR FORFEITURE.**—Any district court of the United States shall have jurisdiction, upon application by the Secretary or the Attorney General, to order forfeited to the United States any fishing vessel, catch, cargo, fishing gear, or the monetary value thereof as determined by the court, used, intended for use, or acquired in the commission by any person of any act prohibited by section 310. In any such proceeding, such court may at any time enter such restraining orders or prohibitions or take such other actions as are in the interest of justice, including the acceptance of satisfactory performance bonds in connection with any property subject to forfeiture.

(b) **SEIZURE.**—If a judgment is entered under this section for the United States, the Attorney General is authorized to seize all property or other interest declared forfeited upon such terms and conditions as are in the interest of justice. All provisions of law with respect to violations of the customs laws relating to the disposition of forfeited property, the proceeds from the sale of such property, the remission or mitigation of forfeitures and the compromise of claims and the award of compensation to informants with respect to forfeitures, shall apply to forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section. Such duties as are imposed upon the collector of customs or any other person with respect to seizure, forfeiture, or disposition of property under the customs laws shall be performed with respect to property used, intended for use, or acquired in the commission of any act prohibited by section 310 by such officers or other persons as may be designated for that purpose by the Secretary.

SEC. 314. [SEC. 311] ENFORCEMENT.

(a) **IN GENERAL.** [Sec. 311 (a)]—The provisions of this Act and any regulation promulgated under this Act to carry out any fishery management plan implemented under this Act shall be enforced by the Secretary, and the Secretary of the Department in which the Coast Guard is operating. In carrying out such enforcement, the Secretary and the Secretary of the Department in which the Coast Guard is operating may utilize by agreement, with or without reimbursement, the personnel, services, and facilities—

(1) of any other Federal agency; or

(2) of any State agency, but only for purposes of enforcement with respect to (A) any vessel in the fisheries conservation and management zone, or (B) any vessel documented under the laws of the United States or otherwise

registered under the laws of any State, wherever any such vessel may be found.

(b) **AUTHORITY.** [Sec. 311(b)]—Any individual authorized pursuant to subsection (a) to enforce the provisions of this Act, any regulation issued thereunder, and any condition or restriction applicable to any permit issued under section 201 may—

(1) with or without a warrant or other process, board and inspect any fishing vessel documented under the laws of the United States or otherwise registered under the laws of any State or any other fishing vessel subject to the jurisdiction of the United States, and its catch and gear, upon the waters of the fisheries conservation and management zone or upon all high seas seaward of such zone;

(2) with or without a warrant or other process, arrest any person committing in his presence or view a violation of section 310 (3) or (4);

(3) execute any warrant or other process issued by any officer or court of competent jurisdiction;

(4) seize any fishing vessel and fishing gear used in, and any fishing vessel on which occurs, the violation of any provision of this Act, any regulation promulgated to carry out any management plan implemented pursuant to this Act, or any condition or restriction applicable to any permit issued under section 201; and

(5) seize any fish, wherever found, taken in violation of any provision of this Act or any regulation or condition or restriction referred to in paragraph (4) of this subsection.

Any fishing vessel, fishing gear, or fish seized pursuant to paragraph (4) or (5) of this subsection may be disposed of pursuant to an order of a court of competent jurisdiction, or, if perishable, in such manner as may be prescribed by the Secretary by regulation.

(c) **STATE OFFICERS.** [Sec. 311(b)]—Any officer of any State, if designated pursuant to subsection (a) to function as a Federal law enforcement agent shall not be considered to be a Federal employee of the United States for the purpose of any laws administered by the Civil Service Commission.

(d) **JURISDICTION OF COURTS.** [Sec. 311(d)]—The Federal district courts shall have exclusive jurisdiction over all cases arising under this Act, any regulation promulgated under the Act to carry out any fishery management plan implemented under this Act and any permit issued pursuant to section 201, and may issue all warrants or other processes as may be necessary. In the case of Guam, actions arising under such regulations may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions.

(e) **PROCEDURE.**—Notwithstanding the provisions of section 2464 of title 28, United States Code, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any fish seized if the process has been levied, on receiving from the respondent or claimant of the fish a bond or other surety satisfactory to the court, conditioned to deliver the fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such case. Such bond or other surety shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in the event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the fish may be sold for not less than its reasonable market value and the proceeds of such sale placed in the registry of the court pending judgment in the case.

TITLE IV—AMENDMENTS TO OTHER LAWS RELATING TO THE FISHERIES AND MISCELLANEOUS PROVISIONS

SEC. 401. [SEC. 403] FISHERMEN'S PROTECTIVE ACT AMENDMENTS.

(a) **SEIZURE PROVISION.** [Sec. 403(a)]—Section 2 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1972) is amended to read as follows:

“Sec. 2. In any case where—

“(1) any vessel of the United States is seized by a foreign country on the basis of rights or claims in territorial waters or the high seas which are not recognized by the United States; or

"(2) any vessel of the United States is seized by a foreign country while such vessel is engaged in fishing in any area of the high seas (and the rights or claims to fisheries conservation and management jurisdiction in such area by such country are recognized by the United States) for a specific stock of fish (including, but not limited to, tuna and any other highly migratory species of fish), and vessels of the United States have previously fished in such area for such stock,

and there is no dispute of material facts with respect to the location or activity of such vessel at the time of such seizure, the Secretary of State shall as soon as practicable take action to attend to the welfare of such vessel and its crew while it is held by such country to secure the release of such vessel and crew, and to immediately ascertain the amount of any fine, license, fee, registration fee, or any other direct charge which may be reimbursable under section 3(a) of this Act."

(b) REIMBURSEMENT PROVISION.—

(1) [Sec. 403(a)(2)(D)(iii)] Section 3(a) of such Act of 1967 (22 U.S.C. 1973(a)) is amended by inserting immediately before the last sentence thereof the following new sentence: "For purposes of this section, the term 'other direct charge' means any levy, however characterized or computed (including, but not limited to, computation based on the value of vessel or the value of fish or other property on board a vessel), which is imposed in addition to any fine, license fee, or registration fee."

(2) [Sec. 403(b)] The amendment made by paragraph (1) of this subsection shall apply with respect to seizures of vessels of the United States occurring on or after December 31, 1974.

SEC. 402. [SEC. 402(b)] AMENDMENTS TO THE ACT OF MAY 20, 1964.

(a) AMENDMENTS.—The Act of May 20, 1964 (78 Stat. 194–196; 16 U.S.C. 1081–1086) is amended—

(1) by amending the first section to read as follows:

"That (a) it is unlawful for any vessel, except a vessel of the United States, or for any master or other person in charge of such a vessel, to engage in fishing—

"(1) within the territorial waters of the United States, its territories and possessions, and the Commonwealth of Puerto Rico;

"(2) within the fisheries conservation and management zone established by title I of the Marine Fisheries Conservation Act of 1975 unless such fishing is authorized under a permit issued pursuant to section 201 of such Act;

"(3) for any anadromous species beyond such fisheries conservation and management zone for which a fishery management plan has been implemented under title III of such Act of 1975 unless such fishing is authorized under a permit issued pursuant to section 201 of such Act of 1975; and

"(4) for any Continental Shelf fishery resource.

"(b) Notwithstanding any other provision of law, the Secretary of Commerce, with the concurrence of the Secretary of State, may permit a vessel, other than a vessel of the United States, owned or operated by an international organization of which the United States is a member, to engage in fishery research within the territorial waters of the United States or within the fisheries conservation and management zone established by title I of the Marine Fisheries Conservation Act of 1975 or for Continental Shelf fisheries resources and to land its catch in a port of the United States in accordance with such conditions as the Secretary may prescribe whenever they determine such action is in the national interest."; and

(2) by amending section 5(c) by striking out "'fisheries'" and inserting in lieu thereof "'fishing'".

(b) Effective Date.—The amendment made by subsection (a) shall take effect July 1, 1976.

SEC. 403. [SEC. 405] ATLANTIC TUNAS CONVENTION ACT AMENDMENT.

(a) AMENDMENT. [Sec. 405(a)]—Section 2(4) of the Atlantic Tunas Convention Act of 1975 (Public Law 94–70) is amended by striking out "the entire zone established by the United States under the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091–1094)," and inserting in lieu thereof "the fisheries conservation and management zone established by title I of the Marine Fisheries Conservation Act of 1975."

(b) EFFECTIVE DATE. [Sec. 405(b)]—The amendment made by subsection (a) shall take effect July 1, 1976.

SEC. 404. [SEC. 404] MARINE MAMMAL PROTECTION ACT AMENDMENT.

(a) **AMENDMENT.** [Sec. 404(a)]—Section 3 (15) (B) of the Marine Mammal Protection Act of 1972 (86 Stat. 1029; 16 U.S.C. 1362(15) (B)) is amended by striking out “the fisheries zone established pursuant to the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091–1094).” and inserting in lieu thereof “the fisheries conservation and management zone established by title I of the Marine Fisheries Conservation Act of 1975.”

(b) **EFFECTIVE DATE.**—[Sec. 404(b)] The amendment made by subsection (a) shall take effect July 1, 1976.

SEC. 405. [SEC. 406] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act (other than section 306(d)(3)).

SEC. 406. [SECTION NOT INCORPORATED INTO PUBLIC LAW 94-265] SEVERABILITY.

The provisions of this Act shall be severable and if any part of the Act is declared unconstitutional or the applicability thereof is held invalid, the constitutionality of the remainder and the applicability thereof shall not be affected thereby.

Amend the title so as to read: “A bill to provide for the conservation and management of the fisheries, and for other purposes.”

PURPOSE OF THE LEGISLATION**[Sec. 2]**

The purpose of this legislation is to provide for the protection, conservation, and enhancement of the fisheries resources of the United States.

In accomplishing this purpose, the legislation would extend the exclusive fisheries zone of the United States from 12 to 200 miles effective July 1, 1976. [Sec. 104] In addition, it would provide for the development of regional fisheries management plans and regulations that would govern fishing within the fisheries zone and control over anadromous fish to the extent of their range. [Secs. 2; 102; 302]

LEGISLATIVE BACKGROUND

H.R. 200 was introduced January 14, 1975, by Mr. Studds and 24 other Members of the House. In addition, there were 13 identical bills and 4 similar bills introduced by various Members of the House.

The authors of these bills are as follows:

Mr. Adams	Mr. Byron	Mr. Dodd
Mr. Addabbo	Mr. Carr	Mr. Downey
Mr. Alexander	Mr. Carter	Mr. Downing of Virginia
Mr. Ambro	Mrs. Chisholm	Mr. Drinan
Mr. Annunzio	Mr. Don H. Clausen	Mr. Duncan
Mr. Ashley	Mr. Del Clawson	Mr. Early
Mr. Aspin	Mr. Cleveland	Mr. Edgar
Mr. AuCoin	Mr. Cohen	Mr. Eilberg
Mr. Badilo	Mr. Conte	Mr. Emery
Mr. Bafalis	Mr. Cotter	Mr. Esch
Mr. Bauman	Mr. Coughlin	Mr. Fish
Mr. Beard	Mr. D'Amours	Mr. Florio
Mr. Bell	Mr. Dan Daniels of Virginia	Mr. Foley
Mr. Biaggi	Mr. D. Daniels of New Jersey	Mr. Wm. Ford of Michigan
Mr. Boland	Mr. Davis	Mr. Forsythe
Mr. Bolling	Mr. de Lugo	Mr. Gaydos
Mr. Bonker	Mr. Derwinski	Mr. Giaimo
Mr. Bowen		Mr. Ginn
Mr. Burke		

Mr. Harkin	Mr. Mitchell of	Mr. Sarasin
Mr. Harrington	New York	Mr. Sarbanes
Mrs. Heckler	Mr. Mitchell of	Mrs. Schroeder
Mr. Helstoski	Maryland	Mr. Sikes
Mr. Henderson	Mr. Moakley	Mr. Snyder
Mr. Hicks	Mr. Moffett	Mr. Solarz
Mr. Holland	Mr. Montgomery	Mrs. Spellman
Mrs. Holt	Mr. Murphy of	Mr. Stanton
Mr. Horton	New York	Mr. Stark
Mr. Hughes	Mr. Murtha	Mr. Studds
Mr. Ichord	Mr. Nedzi	Mr. Talcott
Mr. Jeffords	Mr. O'Brien	Mr. Thompson
Mr. Jenrette	Mr. O'Hara	Mr. Tsongas
Mr. W. B. Jones of	Mr. O'Neill	Mr. Vander Veen
North Carolina	Mr. Ottinger	Mr. Vigorito
Mr. Lagomarsino	Mr. Patten	Mr. Walsh
Mr. Lehman	Mr. Pattison	Mr. Weaver
Mr. Lent	Mr. Pike	Mr. Whitehurst
Mr. Long	Mr. Pritchard	Mr. C. Wilson of Texas
Mr. Lott	Mr. Rangel	Mr. C. Wilson of
Mr. McCormack	Mr. Riegle	California
Mr. McKinney	Mr. Rinaldo	Mr. Won Pat
Mr. Macdonald	Mr. Rodino	Mr. Yates
Mr. Mathis	Mr. Roncalio	Mr. Yatron
Mr. Meeds	Mr. Rooney	Mr. Young of Alaska
Mr. Mezvinsky	Mr. Rose	Mr. Zeferetti
Mr. Miller	Mr. Ryan	
Mr. Minish	Mr. St Germain	

Bills on the same subject were introduced by Mrs. Sullivan, Mr. Dingell, and Mr. Rogers,

As introduced, H.R. 200 had as its main purpose to extend the exclusive fisheries zone of the United States from 12 to 200 miles as an interim measure. [Sec. 401] Whenever general agreement on fisheries jurisdiction was reached in the United Nations Conference on the Law of the Sea and such agreement came into force and effect for the United States, the interim measure would cease to apply, after which the provisions of the treaty would apply. [Sec. 401]

Hearings were held on the legislation by the Subcommittee on Fisheries and Wildlife Conservation and the Environment on March 10, 11, 12, 13, 14, 18, 19, 20, and 27, 1975. In addition, 10 days of field hearings were held on identical and similar legislation in the 93d Congress as follows: Portland, Maine; Islip, N.Y.; Toms River, N.J.; Hampton, Va.; Biloxi, Miss.; New Orleans, La.; New Bedford, Mass.; Panama City, Fla.; Corpus Christi, Tex.; and San Pedro, Calif.

The Departments of Commerce, State, Interior, Justice, Treasury, Defense, and Transportation were requested by the Committee to comment on the legislation. These requests were referred to the Department of State for the preparation of coordinated Executive Branch comments by the National Security Council Interagency Task Force on the Law of the Sea. The task force report said: "... we are sympathetic to the need for a resolution to the genuine problems which have prompted these bills; however, in our view the best solution can be attained by multilateral agreement in the Third United Nations Conference on the Law of the Sea. . ." The first two substantive sessions of this Conference were held in Caracas from June 20 to August 29, 1974, and in Geneva from March 17 to May 10, 1975. A third session is scheduled for New York City beginning March, 1976.

The major objections set forth in the task force report were:

1. Unilateral action now could seriously undermine U.S. efforts in the Law of the Sea Conference and hamper chances for a satisfactory multilateral settlement of the fisheries question.

2. Such unilateral action runs counter to established fundamental principles of international law and would encourage similar jurisdictional claims by other countries, thereby prejudicing U.S. distant water fishing interests such as tuna and shrimp.

3. Serious foreign policy and enforcement problems would result if other distant-water fishing nations refused to recognize our unilateral claims.

4. The bill lacks certain provisions contained in the U.S. proposal for a 200-mile economic zone at the Law of the Sea Conference, which are necessary to protect the interests of all States and the international community in general. These include consideration of the diverse interests of the international community, compulsory dispute settlement, and the payment of reasonable fees to defray regulatory costs.

The overwhelming majority of the testimony presented at the hearings was in strong support of the legislation. In general, the coastal fishermen supported the legislation while the off-shore fishermen, such as the tuna and shrimp fishermen, opposed it. The main basis of the opposition was their fear that unilateral action on the part of the United States would trigger further unilateral action on the part of certain foreign nations off whose shores they fish, preventing their continued fishing in such waters, and causing the demise of their industries.

After giving careful consideration to the evidence presented at the hearings and the report of the National Security Council Interagency Task Force on the Law of the Sea, the committee virtually unanimously ordered reported H.R. 200, with amendments, a quorum being present. The vote was 36 for, 3 against, and 1 present.

As ordered reported, H.R. 200 includes many of the amendments suggested for adoption by witnesses testifying at the hearings and meets many of the objections expressed in the task force report. In fact, it parallels the U.S. position on this issue at the Law of the Sea Conference in many respects. The committee made every effort to see that all segments of the U.S. fishing industry were protected, including those fishermen who fish off the coasts of other nations. [Secs. 201(e); 205; 403] The major provisions of the legislation include: an extension of the United States exclusive fishing zone from 12 to 200 miles [Sec. 101] effective July 1, 1976 [Sec. 104], a comprehensive management program governing U.S. fishermen and foreign fishermen [Sec. 201] within the zone; the regulation of all species of fish except highly migratory species (tuna, bill fishes, etc.) which are to be regulated by International fishery agreements [Sec. 103]; the creation of seven regional marine councils [Sec. 302] to assist the Secretary of Commerce in developing regional management plans and regulations [Secs. 304; 305]; authorization for the charging of reasonable Federal license fees for all those fishing within the zone (including American fishermen) for managed species, the proceeds of which would be earmarked for stock assessment and research except that a portion of such fees imposed on foreign fishermen could be used to

reimburse U.S. fishermen for license fees imposed on them for fishing off the coast of foreign nations. [Secs. 204(b)(10); 303(b)(1); 304(d)] Priority or preferential rights for U.S. fishermen within the zone, with excess stocks to be shared with foreign nations licensed by the Federal Government [Sec. 201(d)]; submission to Congress, for possible disapproval within 60 days of signing, of all bilateral fishing agreements with foreign nations permitting fishing within the 200 mile zone or for anadromous fish beyond the zone if subject to a management plan [Sec. 203]; the banning of seafood imports from foreign nations which refuse to grant equitable access, consistent with reasonable management and conservation practices, to United States fishermen with respect to waters which they have previously fished [Sec. 205]; and the imposition of penalties against all violators of the act and the regulations issued pursuant thereto. [Secs. 308; 309; 310]

BACKGROUND AND NEED FOR THE LEGISLATION

I. HISTORY OF FISHERIES JURISDICTION AND MANAGEMENT

A. International Law

For well over 300 years, one of the most basic principles of the freedom of the seas has been the freedom of fishing. That is, States have generally claimed and been accorded relatively narrow limits of jurisdiction and fishermen have had free and open access to all stocks on the high seas (those waters outside territorial waters of coastal nations). In these international waters, no single State or group of States has had a right to exclude others from freely exploiting these common property resources.

Until recently, this traditional rule of law created a workable arrangement for harvesting the fish resources of the ocean. However, in the last 15 years, as fishery technology has become extremely sophisticated and as fishermen have learned that the resources of the sea are not inexhaustible, continued viability of this rule has come into question. In the history of the law of the sea, specific multilateral or bilateral international agreements for the conservation of fisheries are relatively recent and are in response to the inability of the traditional rule of freedom of fishing to conserve fish and settle controversies between nations.

International lawyers view the law of the oceans as a process of "continuous interaction; of continuous demand and response", a developing system whereby unilateral claims are put forward; the world community weighs the claims and then such claims are either accepted or rejected. International law can thus evolve, too, through the treaty-making process, either through general international agreement on a particular issue or through accumulation of bilateral agreements reflecting a general legal trend. Since 1940 the process has been quite active and a myriad of bilateral or regional arrangements seeking to control fisheries have been negotiated. From time to time, however, some nations have acted unilaterally with respect to altering some aspect of existing, conventional international practice or law—and fishing jurisdictions are a good example.

It was actually the United States which first touched off the most recent series of unilateral declarations of fisheries jurisdiction beyond the territorial sea. President Harry S. Truman in his "Presidential Proclamation With Respect To Coastal Fisheries In Certain Areas Of The High Seas," delivered September 28, 1945, set the stage as follows:

In view of the pressing need for conservation and protection of fisheries resources, the Government of the United States of America regards it as proper to establish conservation zones in those areas of the high seas contiguous to the coast of the United States wherein fishing activities have been or in the future may be developed and maintained on a substantial scale . . . and all fishing activities in such zones shall be subject to regulation and control . . . The right of any State to establish conservation zones off its shores . . . is conceded . . . The character as high seas of areas where such conservation zones are established and the right to their free and unimpeded navigation are in no way thus affected . . .

The motivating purpose behind President Truman's proclamation was conservation and arose out of the incursion of Japanese fishermen into the Alaska Bristol Bay Red Salmon fishery. Shortly following, Chile declared its jurisdiction over the seas adjacent to its coast out to a distance of 200 miles and predicated its decision on the Truman Fisheries Proclamation.

However, the Truman fisheries proclamation was never actually implemented into law and, according to the *Digest of International Law*, the proclamation *per se* asserts no claim to exclusive fisheries jurisdiction over high seas fishing areas off the coast of the United States. Instead, it is stated, the purpose of the fisheries proclamation was to establish, as United States policy, that where fishing activities were developed or maintained jointly by the United States and other nations, conservation zones would be established—but only pursuant to agreement between the United States and such other nations. The domestic implementation of this proclamation has been mainly through attempts by the State Department to negotiate international agreements to protect certain species of fish, most notably the salmon which were threatened by the Japanese.

The Truman proclamation was a forerunner of the 1958 International Convention on Fishing and Conservation of the Living Resources of the High Seas. Currently, there are nearly two score bilateral and multilateral treaties and other international agreements on fisheries to which the United States is a party.¹

Since the 1945 Truman proclamation, nearly forty nations have declared exclusive fisheries zones beyond 12 nautical miles. See table 1.

¹ U.S. Congress. Senate. Committee on Commerce, *Treaties and Other International Agreements on Fisheries, Oceanographic Resources, and Wildlife to which the United States is Party*.

Committee Print. Washington, U.S. Government Print. Office, 1974.

TABLE 1

NATIONS WHICH HAVE UNILATERALLY EXTENDED THEIR EXCLUSIVE FISHERY JURISDICTION BEYOND 12 NAUTICAL MILES ¹

Country	Exclusive fishing jurisdiction (nautical miles)	Notes
Argentina.....	200	
Bangladesh.....	200	
Brazil.....	200	
Cameroon.....	18	
Chile.....	200	
Congo.....	3-15	15 unconfirmed.
Costa Rica.....		"Specialized competence" over living resources to 100 miles.
Ecuador.....	200	
El Salvador.....	200	
Gabon.....	100	
Gambia.....	150	Unconfirmed. Some apparent confusion in drafting of Act No. 9, 1969.
Ghana.....	30	
Guinea.....	130	
Haiti.....	15	Congressional Decree 25 of Jan. 17, 1951, set a 200-nautical-mile territorial sea. Article 5 of the Honduran Constitution accepts a 12-nautical mile limit, but the earlier 200-nautical-mile limit is still on the books.
Iceland.....	50	
Iran.....	50	Limited in Persian Gulf to continental shelf boundaries.
Korea, Republic of.....		Archipelago principle.
Madagascar.....	50	
Maldives.....	2 100	Maximum 150, letter to FAO, May 11, 1969.
Mauritania.....	30	
Morocco.....	70	Except for Strait of Gibraltar.
Nicaragua.....	200	
Nigeria.....	30	
Oman.....	50	
Pakistan.....	50	
Panama.....	200	
Peru.....	200	
Philippines.....		Archipelago principle.
Senegal.....	122	
Sierra Leone.....	200	
Somalia.....	200	
Tanzania.....	50	
Tonga.....		Do.
Tunisia.....	12	Exclusive fisheries zone follows the 50 meter isobath for part of coast (maximum 65 miles).
Uruguay.....	200	
Vietnam, North.....	3 20	
Vietnam, Republic of.....	53	

¹ Source: Limits in the Seas No. 37, National Claims to Maritime Jurisdiction (revised), The Geographer, Office of the Geographer, Bureau of Intelligence and Research. U.S. Department of State, Apr. 1, 1974.

² Approximate.

³ Kilometers.

This increasing tendency of nations to act unilaterally lends support for 12 miles for territorial waters and for fisheries jurisdictional claims out to 200 nautical miles.

Although it is not altogether clear, some legal experts claim that fisheries jurisdiction is still, as a matter of law, set at the 12-mile limit. (An insufficient number of States, they claim, have as yet to adopt a 200-mile fishery zone.) In any event, the world community is once again attempting to resolve the question of jurisdiction in the oceans, and, of course, the question of fisheries jurisdiction is in the forefront of these new discussions.

B. The United Nations Law of the Sea Conference

In 1958 and 1960 the international community negotiated four separate treaties regarding law of the sea in an attempt to codify

uncertain international rules. The principal reason, in fact, for the 1960 meeting was to resolve the issue of limits in the ocean. Again, it was the question of fisheries which proved to be the point on which the nations could not agree. No specific limit on either the limits of the territorial sea or fisheries jurisdiction was achieved. A third Law of the Sea Conference, under consideration since 1967, met in Caracas, Venezuela, from June 20 to August 29, 1974, to consider a large number of issues dealing with the future status of the oceans and their resources. A principal issue among them has been and continues to be the question of the sound future management of the living resources of the sea.

As a matter of policy, for the last several years the United States has been adamantly opposed to any extension of fishery jurisdiction beyond 12 miles. In fact, the Executive Branch of the Government has generally supported the principle of unlimited freedom of the seas as being in the best interest of the Nation. This is attributable to strong naval interests, the need to import large amounts of energy and raw materials by water, and distant water fishing interests, notably tuna and shrimp. In general, coastal fishing interests have taken a back seat to global interests. Consequently, the United States proposal at the Law of the Sea Conference for the resolution of the fisheries question, until quite recently, was the so-called "species" approach, designed to assert no geographical fisheries jurisdiction. Under this proposal, coastal nations would be given regulatory jurisdiction over coastal and anadromous species of fish, together with preferential rights to such fish up to the level of their capacity. The actual limit of coastal jurisdiction over these species would be determined by their location, not by any arbitrary geographical line. In those instances where a coastal nation was not harvesting all of the fish that could be taken on the basis of sustainable yield, all nations would be permitted to fish the surplus after payment of an administrative fee. Highly migratory species would be placed under management by an international body.

The United States "species approach" proposal generated little support among the international community. As evidence of this conclusion, on July 11, 1974, in a major speech by Ambassador John R. Stevenson, Special Representative of the President and U.S. Representative to the Law of the Sea Conference, the United States enunciated a new position. In that speech, Mr. Stevenson stated the position as follows:

In the course of listening to and reading the statements made during the last 2 weeks, I have been struck by the very large measure of agreement on the general outlines of an overall settlement. Most delegations that have spoken have endorsed or indicated a willingness to accept, under certain conditions and as part of a package settlement, a maximum limit of 12 miles for the territorial sea and of 200 miles for an economic zone, and an international regime for the deep sea bed in the area beyond national jurisdiction.

The United States has for a number of years indicated its flexibility on the limits of coastal state resource jurisdiction. We have stressed that the content of the legal regime within

such coastal state jurisdiction is more important than the limits of such jurisdiction. Accordingly, we are prepared to accept, and indeed we would welcome general agreement on a 12 mile outer limit for the territorial sea and a 200-mile outer limit for the economic zone provided that it is part of an acceptable comprehensive package including a satisfactory regime within and beyond the economic zone and provision for unimpeded transit of straits used in international navigation.

Ambassador Stevenson went on to state further that:

For fisheries, to the extent that the coastal nation does not fully utilize a fishery resource, we contemplate coastal nation duty to permit foreign fishing under reasonable coastal state regulations. These regulations would include conservation measures and provisions for harvesting by coastal state vessels up to their capacity and would include the payment of a reasonable license fee by foreign fishermen. We also contemplate a duty for the coastal state and all other fishing states to cooperate with each other in formulating equitable international and regional conservation and allocation regulations for highly migratory species, taking into account the unique migratory pattern of these species within and without the zones.

The thrust of this new position indicated that the United States is indeed ready to accept, as part of an acceptable overall treaty package, the concept of 200 miles for fishery management jurisdiction. However, acceptance would be conditioned upon satisfactory resolution of a number of issues of high importance to the U.S. delegation. In effect, the United States has conceded that the 200 mile limit will eventually be accepted by the Law of the Sea Conference and, consequently, has turned its attention to defining the relationship between the rights of the coastal and the international community within that 200 mile limit.

The delegates to the Caracas meeting, failing to reach any agreement, adjourned and then reconvened the Conference for a second session in Geneva for eight weeks ending May 10, 1975. While no final agreement was achieved there either, a draft treaty or "single negotiating text" was prepared which will be further considered by Conference participants in New York in March of 1976 when the third session of the Law of the Sea Conference is now scheduled to be held. A consensus is evidently emerging among Conference delegates that new international law should recognize an extension of all nations' territorial waters from 3 to 12 miles offshore, with coastal states allowed to establish an "economic zone" of jurisdiction extending at least 200 miles offshore.

In terms of the problems addressed by H.R. 200, this indication of official U.S. acceptance of the principle of a 200-mile economic zone does not nullify the need for this legislation. Primary among the reasons why H.R. 200 is considered necessary by the Committee on Merchant Marine and Fisheries is that the international community does appear ready to adopt a 200-mile limit. The real question is when.

Beginning now, it is quite possible that distant water fishing nations which have made large investments in technologically advanced and large fleets will become very uncertain about future access to a coastal nation's 200-mile zone. Consequently, it is possible that such nations will step up their efforts to capture fish on the high seas as long as the limits remain narrow. The Committee is quite concerned about the effect of delay in the implementation, ratification and effective date of any new convention that may be negotiated in the Law of the Sea Conference which will most likely contain a 200-mile fishery limit provision.

Informed observers of international negotiating sessions in general, and of the Law of the Sea Conference in particular, note there is no absolute assurance of any complete agreement on a new international treaty at the March 1976 meetings. They also point out that even if a new treaty text is agreed to by the Delegates, many months will pass before a sufficient number of nations officially sign the negotiated treaty; formal ratifications by signatory nations will take even longer. In fact, if previous law of the sea treaties are any benchmark, an effective treaty may be several years off. Three of the four conventions signed in 1958 entered into force between 4 and 6 years after signature in Geneva. The fourth, the Convention on Fishing and Conservation of the Living Resources of the High Seas, entered into force only in 1966, fully 8 years after it was signed. In all likelihood the world will be confronted with a substantial interim period between agreement and a final, effective treaty. H.R. 200 is intended to fill that gap by providing the United States with authority to manage the fish it relies upon during this interim period. [Sec. 401]

C. Federal Jurisdiction

In addition to the Federal role in international affairs, as evidenced by the numerous fisheries protocols, treaties and conventions to which the United States is a party, there is also a sole Federal jurisdiction over the fisheries resources found beyond the three-mile territorial sea and within the present 12-mile limit to our fisheries economic zone. In these waters, it is the Federal Government which has the responsibility for whatever management of the fish stocks occur at all. Historically, however, the Federal role, in effect, has been limited to data gathering and law enforcement (principally against encroaching foreign fishermen). Many, in fact most, of the fish stocks found within the 3- to 12-mile zone also spend part of their life histories within the coastal 3-mile area (and even inland in the case of anadromous species) and/or beyond the 12-mile limit. True management under these circumstances is awkward and inefficient at best and essentially nonexistent at worst.

D. State Jurisdiction

Under United States law, the biological resources within the territorial sea of the United States (i.e., out to 3 miles) are the management responsibility of the adjacent several States of the Union. Whatever regulation, of both fishermen and fish harvest, that occurs in this area is as deemed necessary and appropriate by each concerned State. Notwithstanding that fish are mobile and do not respect political boundaries between States or between the territorial sea and the

high sea, effecting integrated regional management has far too often proven elusive or impossible. The Committee has determined clearly that the critically needed conservation and management of our fish stocks cannot be obtained without improved coordination and integration of the respective State and Federal roles.

II. THE CHARACTER AND VALUE OF THE U.S. COMMERCIAL FISHING INDUSTRY

Commercial fisheries traditionally have been an important source of income and employment in coastal areas of the United States and there are some years in which the various fleets earn high profits. Commercial fishing, however, is generally characterized by marginal or break-even operations. This is not to say that all vessels operating in a given fleet merely break even. There are always some vessels that through special expertise of the captain and/or crew or for some other reason will earn high profits. However, the nature of the resource and the institutional arrangements controlling harvesting are such that there is clearly a tendency for the vessels to be forced to a break-even point of production. This tendency makes it difficult to attract new capital, technology and young fishermen.

Consequently, the U.S. fleet is generally characterized by old vessels which are expensive to maintain, relatively inefficient, and subject to high and rapidly increasing insurance rates. Concurrent with this, in many fisheries the fishermen or crews receive relatively low earnings for the high number of hours they work. New fishermen have not been attracted to these fisheries and the average age of the fishermen seems to be rising steadily.

Much of this has been attributed to the high rate of foreign fishing. There is little doubt that with some species (haddock, for example) the intense foreign effort has resulted in biological overexploitation and considerable economic waste for the domestic fishing industry. However, the high rate of foreign fishing, the old age of vessels and crewmen, and the low earnings to labor and capital in certain fisheries are primary symptoms rather than causes. That is, these are characteristic of a common property resource in which there is no ownership of the resource and thus entry (either by foreign or domestic interests) into the fishery takes place as long as there is economic rent or profit to be earned. This means that in any fishery, unless there are restrictions on entry, fishing effort tends to increase to a level where average profits—or economic rent attributable to the resource—is dissipated. Therefore, while some vessels in each fishery earn a profit, the tendency is toward zero profits, with the result being old crewmen and vessels and low earnings to labor and capital.

Many individuals in the commercial fishing industry and in the Federal and State agencies responsible for fishery management recognize the need to take positive steps to improve this situation. While certain constraints on domestic entry in American fisheries are often necessary, such controls would not be effective unless analogous controls apply to foreign vessels fishing the same stocks. It is critical to U.S. fisheries, generally, that rapid progress be made in obtaining international agreements to rationally control fishing effort.¹

¹ The above four paragraphs were extracted from Gates and Norton, 1974. *The Benefits of Fisheries Regulation: A Case Study of the New England Yellowtail Flounder Fishery*. Marine Technical Report No. 21, University of Rhode Island, Kingston.

The U.S. commercial fishing industry consists of approximately 150,000 fishermen, 1,800 processors, 1,200 wholesalers, and 2,000 importers/exporters, plus frozen and canned food distributors and chain store, restaurant, and institutional buyers. There are also approximately 85,000 people employed in processing and wholesaling fish products.

It is largely although not entirely composed of many small enterprises spread along the coastal States and throughout much of the interior of the country. An estimated 80 percent of the fishing craft in the United States is individually owned and 84 percent is under 5 tons. Small-unit operation also is characteristic of the processing industry. Only a few large companies exist. About 42 percent of the plants have sales of less than \$100,000. Only 17 percent have sales of over \$1 million and only 2.7 percent (43 plants) have sales of over \$10 million. The few companies that may be considered giants in the fish industry are quite small when compared to large companies in other areas of food processing.

World landings have tripled since 1938. See Figure 1. U.S. landings in the same time rose in the aggregate only slightly, from 4.3 billion

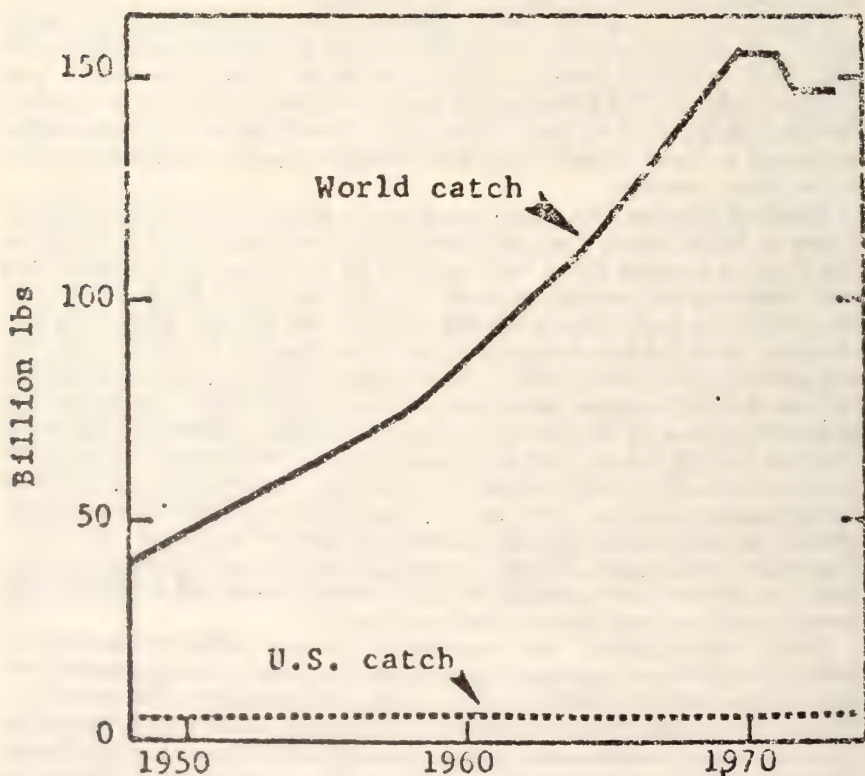


FIGURE 1. U. S. and world catches.

pounds in 1938 to 4.7 billion pounds in 1973. A gradual rise to the 1960s, reaching a high of 5.3 billion pounds, was followed by a decline to the 4.7 billion pound level. Despite a rising demand in the U.S. for fisheries products, the U.S. fleets, with the exceptions principally of the shrimp, tuna, and menhaden fleets, generally have remained undeveloped or have deteriorated. Processors have had to rely more and more on imports to meet domestic demands.

It has been stated that the overall volume of U.S. catches has remained essentially static over the last twenty years. This is not true of the U.S. consumption of fishery products, which has nearly doubled in this period. To meet this need, U.S. imports more than tripled between 1959 and 1973—from 1.75 billion pounds to 5.5 billion pounds. Imports of edible fisheries products, increasing steadily, more than quadrupled in the 1959–1973 period. See Figure 2. On the other hand, imports of industrial products, consisting principally of fish meal, reached a high point in 1968 and then declined—due largely to a reduction in fish meal supplies from Peru—to their lowest level since 1950. The overall record is one of increasing dependence by the U.S. on the products of other nations' fisheries. The total value of such imports in 1973 was \$1.14 billion. The volume in round weight was twice that of the U.S. catch.

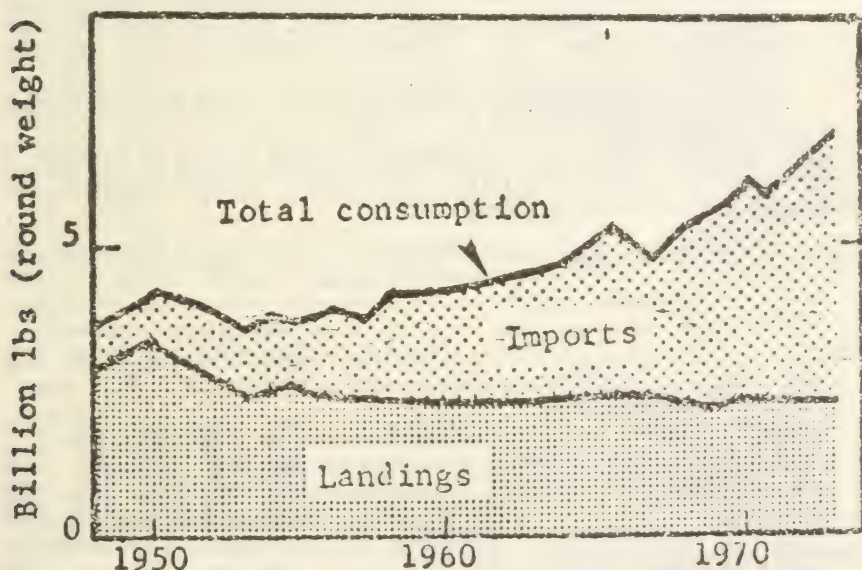


FIGURE 2. U.S. landings, imports, and consumption of edible fishery products.

To give some further measure of the growth of imports, in 1950 the United States imported only 23.4 percent of its seafood while in 1974 imports were over 60 percent. Although the United States has only 6 percent of the world's population and catches 2.5 percent of the total world catch of seafood, its residents consume about 7 percent of the

world's seafood production. This desire for seafood led to a 1972 adverse balance of payments of \$1.3 billion in fish and fisheries products—up 318 percent since 1960.

A study, *A Baseline Economic Forecast of the U.S. Fishing Industry, 1974-1985*, developed for the NMFS by Synergy, Inc., was based upon the most complete data currently available and predicts U.S. landings and imports of 12 categories of fish consumption. The forecast assumes that historical trends and conditions will continue—especially that there will be *no* extension of U.S. jurisdiction, that latent fisheries resources will *not* be developed on a broad scale, that NMFS programs will remain at present levels with *no* major alterations in program composition, and that international cooperation and sound domestic management *will* prevent overfishing. Proceeding from these assumptions, and using accepted econometric methods, the Synergy study makes its "baseline" forecasts. Among the conclusions:

Edible supplies of seafood products will increase from 7.0 to 9.3 billion pounds (round weight) by 1985. But of this total increase of 2.3 billion pounds, 2.2 billion pounds—about 96 percent—will come from imports.

Total U.S. landings will rise only slightly, from the 4.7 billion pounds (round weight) of 1973 to 4.9 billion pounds in 1985.

In the commercial harvesting sector, employment, average wages, net revenues, and productivity will increase at rates experienced before 1973, although significant gains may be achieved in wages and net revenues.

In the commercial processing sector, no more than moderate gains are expected by 1985.

The Synergy forecasts, summarized in Table 2 may be considered reference points from which any improvements in the future of the marine fisheries can be measured.

TABLE 2.—SUMMARY OF HISTORICAL AND FORECAST DOMESTIC LANDINGS, IMPORTS, AND TOTAL SUPPLIES BY WEIGHT AND VALUE, 1965-85

	Historical		Forecast		
	1965	1973	1975	1980	1985
Weight (millions of pounds round weight):					
Total U.S. edible landings ¹	2,587	2,328	2,399	2,408	2,415
Total edible imports ¹	2,576	4,709	5,128	6,020	6,929
Total edible supplies ¹	5,163	7,037	7,527	8,428	9,344
Total U.S. industrial landings ¹	2,190	2,404	2,520	2,520	2,520
Total industrial imports ¹	3,182	811	4,453	6,023	7,609
Total industrial supplies ¹	5,375	3,215	6,973	8,543	10,129
Total supplies ¹	10,535	10,252	14,500	16,971	19,473
Exvessel value (millions of 1967 dollars):					
Total U.S. edible landings ²	433	613	649	738	808
Total edible imports ²	507	972	1,054	1,237	1,424
Total edible supplies ²	940	1,585	1,703	1,975	2,232
U.S. industrial landings ²	39	68	43	49	54
Industrial imports ²	129	139	162	219	276
Total industrial supplies ²	168	207	205	268	330
Total supplies ²	1,108	1,792	1,908	2,243	2,562

¹ Historical Source: "Fisheries of the United States, 1973", p. 55.

² Ibid., p. 56 and past issues of "Fishery Statistics of the United States."

Note: All value terms were converted into 1967 dollars.

In short, fisheries play a large role in the national diet by both direct and indirect consumption, but our domestic fishing fleet is catching less and less of the fish consumed as more and more is being demanded. Meanwhile, the most important and valuable species of fish are being depleted. Dr. Robert M. White, Administrator of the National Oceanic and Atmospheric Administration, has warned that by 1980 the world's fishing fleets are expected to catch 100 million metric tons of fish. According to Dr. White, scientists feel that 100 million tons is the maximum number of fish capable of being taken from the sea without biological harm to world breeding stocks. World fleets now harvest, according to the most reliable figures, 70 million tons of fish. It is clear to the Committee that if we are indeed to prevent the elimination of an important source of protein for the United States and the world, strong action must be taken to prevent further depletion and to bring technologically advanced fishing efforts under control.

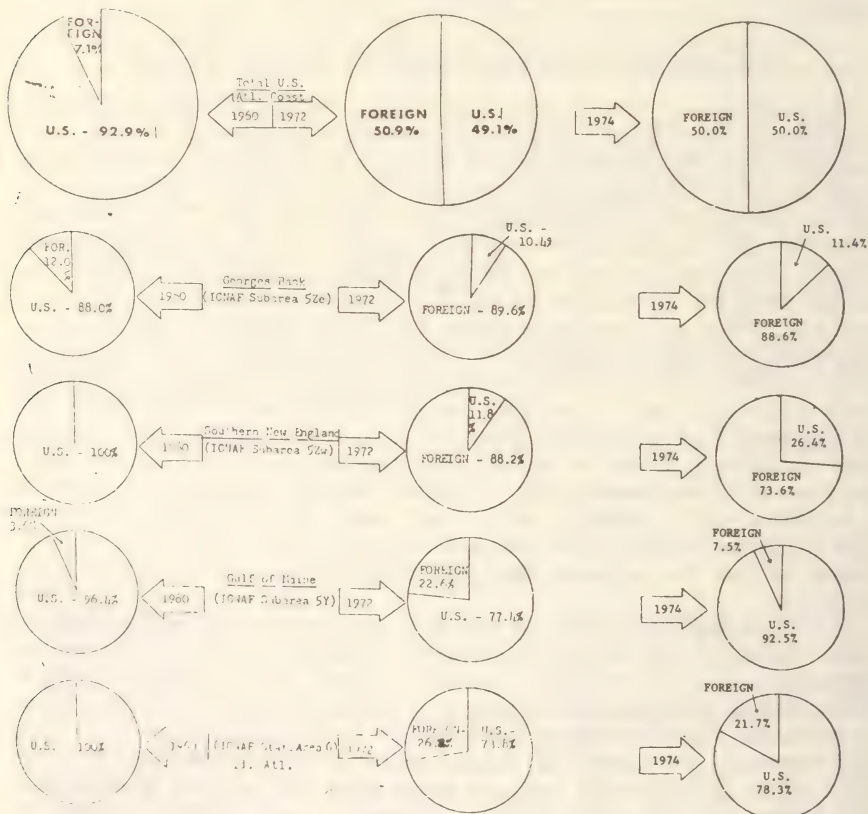
III. HISTORY OF FOREIGN FISHING OFF U.S. SHORES

As pointed out earlier, the controversy in the Pacific Northwest concerning the efforts of Japanese vessels to harvest Bristol Bay salmon stocks was the impetus for the Truman Fisheries Proclamation and, in effect, the beginning of serious U.S. concern over foreign fishing efforts off its shores. Following World War II, the United States, Canada, and Japan negotiated and signed the International North Pacific Fisheries Convention, designed to deal with at least in part, the added pressure on salmon stocks. The salient agreement in this convention, which still has implications for fishing policies today, was the agreement by Japan to abstain from fishing for salmon east of the 175th west meridian. At that time, it was felt that if the Japanese abstained from catching North American salmon stocks east of that line, the stocks would be protected. However, since then, it has been shown that the salmon range far beyond the boundary line and Japan is able, because of its technologically advanced fishing capabilities, to catch a large number of salmon after they reach the abstention line. It was not until the late 1950's and early 1960's that the rest of the nation began to feel the pressure from growing numbers of foreign fishing trawlers.

Fish and shellfish stocks off the U.S. coast are an enormous renewable resource; the annual harvest by foreign and U.S. fishermen currently averages 11 billion pounds, valued at approximately \$6.6 billion retail. The potential annual catch from the U.S. coastal resource is estimated between 20 and 40 billion pounds worth at least \$12 billion retail. A recent U.S. Senate study predicts that the value of the landed product may increase more than 500 percent in constant dollars by the year 2000. These resources are subject to competitive harvesting by foreign and domestic fishermen; 14,000 U.S. vessels over 5 gross tons and up to a thousand foreign vessels, most over 250 tons.

A good example is the New England fishing grounds. Before 1960, the Georges Bank fishing area was used exclusively by U.S. fishing vessels, except for a few Canadian fishermen. In 1961, Soviet fishing

vessels reported taking 68,000 tons of fish off Georges Bank. By 1965, Soviet exploitation had expanded to the Continental shelf area of Georges Bank down to the Chesapeake Bay and their catch reached over a half million tons, far in excess of the United States catch. By 1970, several other countries had joined in the harvest and the foreign take grew to more than 1 million tons, far in excess of the allowable harvest recommended by the scientists of the United States and other countries. The U.S. share began to decline and in 1972 our fleets took only about 12 percent of the catch in the southern New England area and only 10 percent from the Georges Bank area. In 1960 the United States took 92.9 percent of the total catch off the Atlantic coast. By 1972, the U.S. share of the total catch had been reduced to 49.1 percent. The 1974 data reflected localized improvements but the U.S. share of the total take on the Atlantic Coast was but 50 percent (see figure 3).



Source: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, August 1975.

FIGURE 3. United States versus foreign percent of total catch in Atlantic coastal waters, 1960, 1972, 1974.

Between 1950 and 1969 the world production of fish multiplied about threefold, from 20 million metric tons to about 63 million metric tons; yet the U.S. share of the catch has remained at a relatively fixed level of between 2.0 and 2.2 million tons. Thus while the U.S. take of fish off its shores has remained relatively stable, or declining in certain locations, foreign efforts have increased monumentally over the past fifteen years. Other nations with large and efficient fleets—many subsidized and carrying the most technologically advanced equipment—have experienced substantial increases. Gains recorded by six leading fishing nations are reflected in data published by the United Nations Food and Agriculture Organization (FAO). The gains (the totals including shell weights) were these: *Japan*, 18.1 to 22.4 billion pounds; *U.S.S.R.*, 3.3 to 16.2 billion pounds; *China* 5.9 to 16.7 billion pounds; *Norway*, 2.4 to 7.0 billion pounds; and *Peru*, 0 to 10.6 billion pounds. In Peru the rise actually was 23.3 billion pounds by 1971, but the 1972 landings fell suddenly to 10.6 billion pounds because of reduced catches in the anchovy fishery.

This situation has led to overfishing of at least 10 major commercial stocks (Alaska pollock, California sardine, haddock, halibut, herring, ocean perch, Pacific mackerel, sablefish, yellowfin sole, yellowtail flounder), resulting in serious economic consequences. For example, overexploitation of the California sardine and the haddock off New England has resulted in an accumulated loss to fishermen in excess of half a billion dollars as of 1974. (See Table 3.)

TABLE 3.—DEFICITS IN LANDED CATCH INCURRED BY TWO OVER-EXPLOITED FISHERIES
U.S. HADDOCK CATCH—1962-66 AVERAGE 131,900,000 POUNDS

Year	Catch (lbs. K)	Deficit (lbs. KK)	Price (\$/lb.)	Deficit (\$KK)	5 percent compounded (\$KK)
1967.....	98.3	33.6	.11	3.7	5.0
1968.....	71.3	60.6	.13	7.9	10.1
1969.....	42.6	89.3	.17	15.2	18.5
1970.....	26.8	105.1	.22	23.1	26.7
1971.....	21.6	110.3	.26	28.7	31.6
1972.....	11.7	120.2	.37	44.5	46.7
1973.....	8.2	123.7	.39	48.2	48.2
Total.....		642.8		171.3	186.8

U.S. CALIFORNIA SARDINE CATCH—1946-50 2,460,000,000 POUNDS TOTAL

1951-55.....	564	1,896	0.02	37.9	100.4
1956-60.....	452	2,008	.02	40.3	83.9
1961-65.....	80	2,380	.02	47.6	77.6
1966-70.....	1	2,459	.02	49.0	62.6
1971-73.....	1	1,476	.02	29.4	30.0
Total.....		10,219		204.2	355.4

Source: National Marine Fisheries Service, NOAA, Department of Commerce.

Table 4 demonstrates the magnitude of foreign fishery vessel operations off U.S. coasts in fiscal year 1975. Figures 4-7 provide graphic indications of the nature and extent of the impact of foreign fishing vessels off U.S. coasts in just 1 month—April 1975.

TABLE 4.—FOREIGN FISHERY VESSELS OPERATING OFF U.S. COASTS DURING FISCAL YEAR 1975*

Fishing grounds	Stern trawlers ¹	Medium trawlers ²	Other fishing vessels	Process and transport vessels	Support vessels ³	Research vessels ⁴	Total
Off Pacific coast:							
Off Alaska:							
Japan.....	534	751	1,098	208	23	2	2,616
Poland.....	6	0	0	0	0	0	6
Republic of China.....	5	0	0	0	0	0	5
Republic of Korea.....	17	61	37	6	0	0	121
Soviet Union.....	250	374	1	59	40	5	729
Other.....	0	0	0	0	0	0	0
Total.....	812	1,186	1,136	273	63	7	3,477
Off Pacific Northwest:							
German Democratic Republic.....	0	0	0	0	0	0	0
Japan.....	14	0	10	1	1	0	26
Republic of Korea.....	0	0	24	0	0	0	24
Poland.....	33	0	0	2	2	0	37
Soviet Union.....	215	3	11	38	14	12	293
Federal Republic of Germany.....	2	0	0	0	0	0	2
Total.....	264	3	45	41	17	12	382
Off California:							
German Democratic Republic.....	0	0	0	0	0	0	0
Japan.....	10	0	0	0	1	0	11
Poland.....	53	0	0	4	1	0	58
Republic of Korea.....	0	0	1	0	0	0	1
Soviet Union.....	339	1	3	24	18	11	396
Federal Republic of Germany.....	6	0	0	0	0	4	10
Total.....	408	1	4	28	20	15	476
In the Gulf of Mexico:							
Cuba.....	0	49	40	0	4	0	93
Japan.....	0	0	26	0	0	0	26
Mexico.....	0	6	2	0	0	0	8
Soviet Union.....	0	0	0	0	0	0	0
Canada.....	0	0	2	0	0	0	2
Total.....	0	55	70	0	4	0	129
Off the Atlantic coast:							
Bulgaria.....	44	0	0	6	0	0	50
Canada.....	6	0	0	0	0	0	6
Federal Republic of Germany.....	41	0	0	2	1	3	47
France.....	4	0	0	0	0	1	5
German Democratic Republic.....	98	74	0	17	3	2	194
Ireland.....	11	0	0	0	0	0	11
Italy.....	37	0	0	0	0	0	37
Japan.....	104	0	54	4	0	0	162
Norway.....	0	0	1	0	0	0	1
Poland.....	199	58	0	34	0	2	293
Romania.....	7	0	0	0	0	0	7
Soviet Union.....	778	161	265	112	22	9	1,347
Spain.....	88	31	60	0	0	0	179
Total.....	1,417	324	380	175	26	17	2,339
Grand total.....	2,901	1,569	1,635	517	130	51	6,803

*Excludes duplicate sightings within the same month—includes repetitive sightings from 1 month to the next.

¹ Includes all classes of stern factory and stern freezer trawlers.² Includes all classes of medium side trawlers (nonrefrigerated, refrigerated, and freezer trawlers).³ Includes fuel and water carriers, tugs, cargo vessels, etc.⁴ Includes exploratory, research, and enforcement (E) vessels.

Source: National Marine Fisheries Service, Law Enforcement Division, NOAA, Department of Commerce.

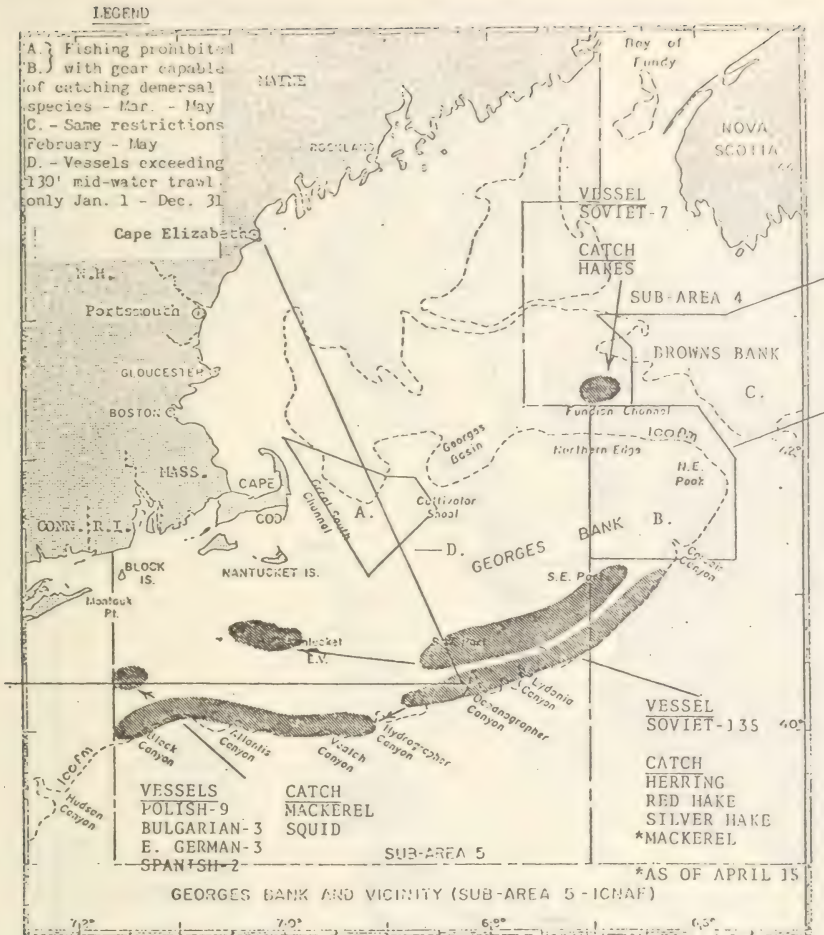


FIGURE 4. Foreign vessels in the Northwest Atlantic in April 1975 by country, number of vessels, principal fishing grounds, and the species fished.

Source: National Marine Fisheries Service, NOAA, Department of Commerce.

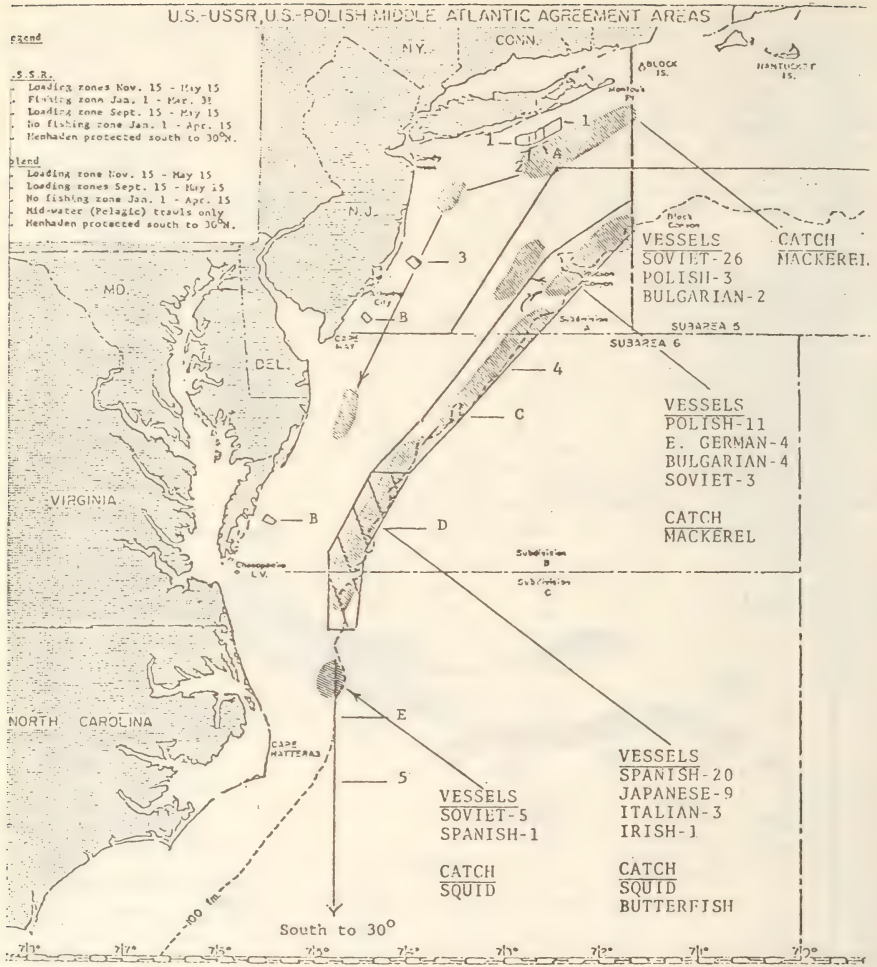


FIGURE 5. Foreign vessels in the Middle Atlantic in April 1975 by country, number of vessels, principal fishing grounds, and the species fished.

Source: National Marine Fisheries Service, NOAA, Department of Commerce.

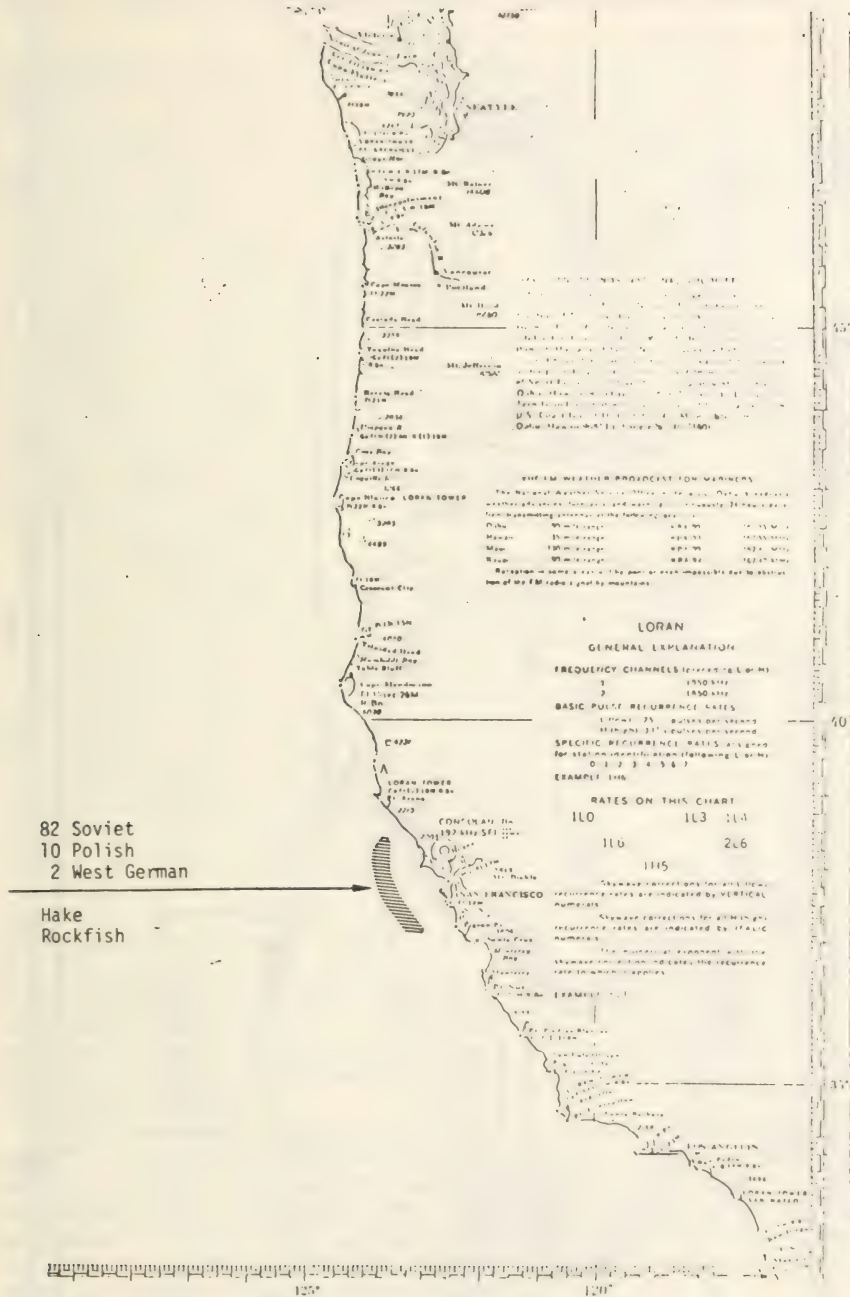


FIGURE 6. Foreign vessels in the Pacific Northwest in April 1975 by country, number of vessels, principal fishing grounds, and the species fished.

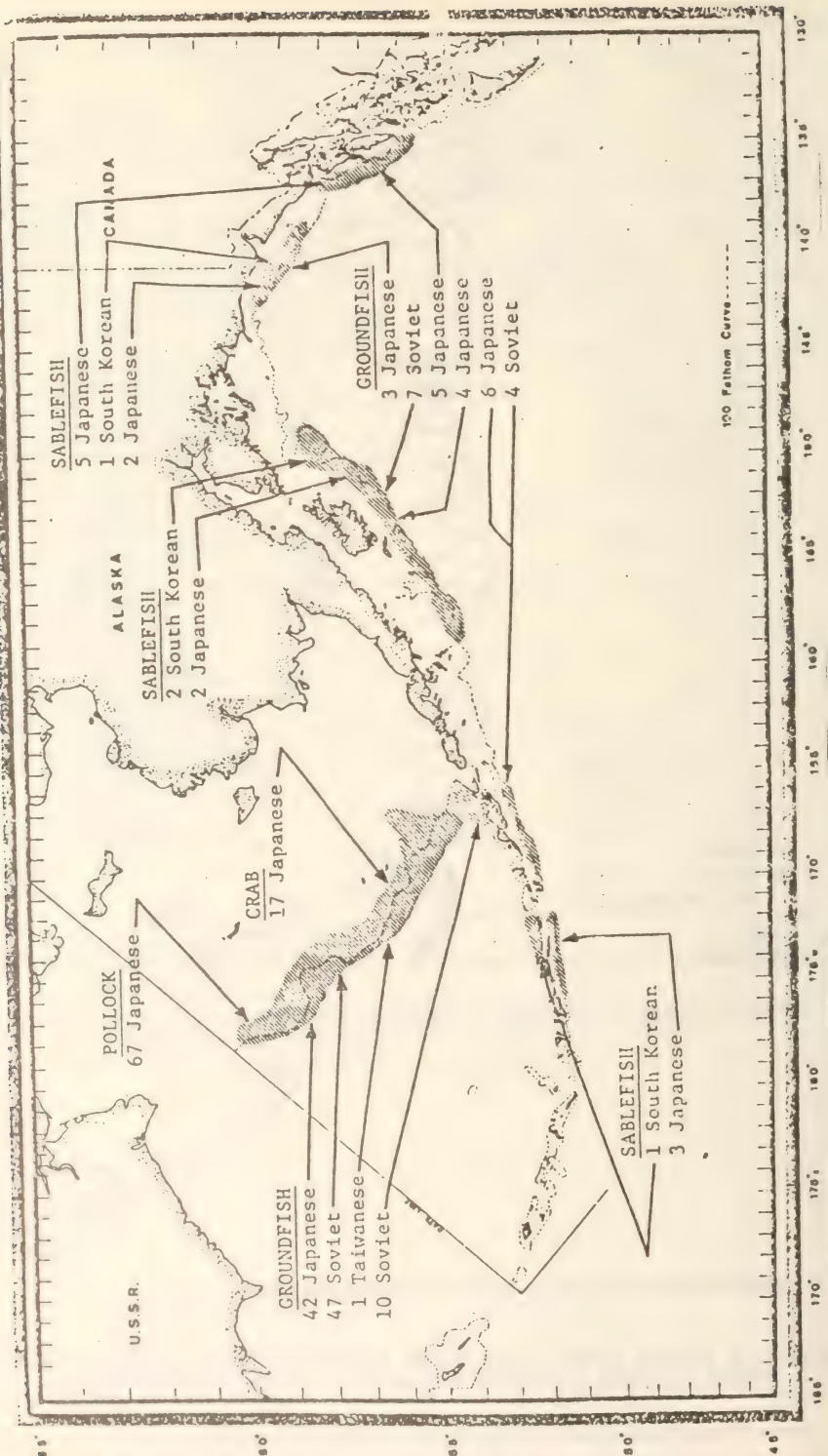


FIGURE 7. Foreign fishing off Alaska in April 1975, by country, number of vessels, principal fishing grounds and species.

Source: National Marine Fisheries Service, NOAA, Department of Commerce.

IV. INADEQUACIES OF INTERNATIONAL FISHERIES AGREEMENTS

The decline in many of the fisheries off our coast has been coincidental with increased foreign fishing in major areas along our continental shelf and beyond our existing 12-mile fishery jurisdictional limit. Current international, national and state conservation efforts are not successfully preventing the depletion of fisheries resources of the greatest economic importance. The normal process of negotiating fishery agreements is time consuming and complex. Nations wishing to continue a high level of fishing effort while negotiating can easily slow down or impede progress of such negotiations,* and without mutual agreement, there are no binding treaties. Moreover, a number of existing agreements admittedly have resulted in over-fishing, and the signatory nations have been reluctant to reduce their efforts accordingly. Presently, the United States is party to well over a score of international fishing agreements and periodically engages in bilateral and multilateral negotiations with foreign nations to restructure these treaties and to frame new ones which seek to conserve fish resources. Nearly all of the stocks of fish considered to be depleted or threatened with depletion are subject to these international agreements (see Appendix I).

In those instances where agreements are reached, the problem of enforcement has been chronic. Traditionally, international fishery agreements provide for the enforcement by each signatory nation as to their own citizens. For example, if a Soviet fleet is operating off U.S. shores pursuant to an international agreement, it is the duty of Soviet officials to enforce that agreement on their citizens. It is easy to see, however, why a nation, which on the one hand has directed its fishing fleet to return a high quota of fish, may not be as diligent as is necessary to enforce full compliance with international agreements. In many cases, it would appear that effective sanctions are completely lacking and violations often go unpunished. Meanwhile, U.S. fishermen see themselves as being tightly regulated by Government officials to comply with U.S. responsibilities under any such agreement. They claim that while they must toe the line, foreign fishermen are not forced to toe the same line. Furthermore, it is difficult to imagine that a nation with a long distance fishing fleet which can pick up and move to any part of the world would ever be strongly concerned about conserving fisheries in any one particular area. In contrast, fishermen who live a relatively short distance from a fishing ground have a much greater interest in conserving the fish that inhabit the waters near their home.

The Committee has concluded that historical evidence does not justify rational faith in the ability of such international agreements alone to provide the necessary protection and management of our invaluable fishery resources, nor to assure domestic fishermen of the protection to which they are entitled in making their living from resources produced in American waters in at least some significant phase of the life cycles of such resources.

V. IMPLICATIONS FOR SALMON, SHRIMP AND TUNA INDUSTRIES

In addition to the objections of the State Department and others fearful of adverse impacts of unilateral action on the progress of the Law of the Sea Conference, some segments of the American fishing

industry have expressed concern or even out-right objection to the extension of fishing jurisdiction promoted by this legislation. [Secs. 101; 102] Distant water fleet owners (principally shrimp and tuna fisheries) fear that enactment of H.R. 200 will eradicate the traditional U.S. policy of freedom of fishing up to 12 miles from any foreign nation's shoreline (a change seemingly already in evolution given the emerging consensus at the Caracas and Geneva meetings of the Law of the Sea Conference). The salmon industry fears that if the United States were to assert a 200 mile fishing limit [Sec. 101] and jurisdiction over anadromous species of fish [Sec. 102(2)], a series of events will occur leading to increased capture of salmon by foreign nations, particularly Japan. They feel that assertion of jurisdiction over anadromous species [Sec. 102(2)] may simply not be recognized by nations fishing for salmon on the high seas. This school of thought also holds that once the U.S. declares a 200 mile limit [Sec. 101], the Japanese will abrogate the International North Pacific Fisheries Treaty and fish for salmon within the abstention line and up to the edge of the 200 mile zone. Since they fear Japan has the capacity to take a significant portion of the salmon which should return to the United States, the domestic catch will thus be severely restricted. A counter-argument can be made, however, that other fish the Japanese presently take within 200 miles of our coast are more important to them than salmon thus giving the U.S. negotiating leverage with which to protect high seas salmon in return for access into the 200 mile zone for other species. [Secs. 2(b)(1); 101; 102(2); 201(a)(4)(B)]

So far as tuna and shrimp interests are concerned, H.R. 200 addresses their concerns in two ways. Highly migratory species, such as tuna, are declared to be subject to regulation by international agreements and that coastal nations have no authority unilaterally to regulate the taking of such fish. [Secs. 2(b)(2); 103] Secondly, the Act explicitly encourages bilateral agreements. [Secs. 201; 202] The Brazil shrimp fisheries agreement is an example where American fishermen have successfully negotiated fishing rights within an area over which another nation has claimed jurisdiction. Since the U.S. has indicated willingness in underexploited fisheries to accept foreign entry into such fisheries and since this bill also provides for negotiated recognition of certain fishing by foreign nations within the U.S. zone [Sec. 201(d)], it follows that reciprocity from other countries can be expected in return in the case of U.S. fishing practices within the 200 mile zone of others. [Sec. 201(e)] In short, while the Committee has certainly been most mindful of the legitimate concerns and arguments of these sectors of the fishing industry, it believes the bill it is reporting has sufficient features to protect these fishing interests to the greatest extent possible consistent with wise resource management and the necessary adjustments which a change in fishing jurisdiction regimes inevitably require. [Sec. 2]

VI. SUMMARY: A BRIEF FOR UNILATERAL ACTION

After several years of painstaking fact-finding and deliberation, the Committee has concluded that many of the important American fish stocks have been over-exploited, some, like haddock, to the point

of essentially commercial extinction, and many others are threatened with a similar fate. [Sec. 2(a)] The Committee concludes that the depletion of these stocks is in large measure attributable to the phenomenal increase in recent years in the number of technologically sophisticated and very efficient foreign fishing vessels in waters off United States coasts, and that if such fishing pressure is not regulated and reduced immediately, irreversible damage may well be done to important fish stocks and to American fishing interests alike. [Sec. 2(a)] While gladly conceding that an inevitable goal must be reform and increased sophistication in international law and other appurtenances of international agreement, the Committee is resolute in its conviction that the time required to effect needed adjustments in the arena of international law are such as to make the conservation of many fish stocks and the welfare of our domestic fishing industry almost moot unless immediate, or at least short-term, action is taken without further delay. [Sec. 2] Accordingly, the unilateral action represented by this bill is specifically keyed to eventual supercession by the new Law of the Sea agreements at such time as they are achieved and enter into force. [Secs. 2(c) (5) : 401]

As the National Advisory Committee on Oceans and Atmosphere says so well in its report to the President and Congress:¹

The major new challenge is *fisheries management*. Instead of the living resources of the sea belonging to no one, a world consensus is developing which would place the exclusive jurisdiction of most fisheries and other living resources with the coastal nation. For the United States, with one of the longest coastlines of any nation and some of the richest fishing areas of the world ocean, this virtual ownership of vast fisheries resources, which may well be capable of producing on the order of ten million tons of food per year, presents a new opportunity for our people and new responsibility for our government.

Many of our fishery resources have been overfished. Some of the overfishing has been caused by U.S. fishermen, but in recent years serious depletion of some of the largest and most important resources found off our coast is traceable to the influx of hundreds of foreign fishing vessels.

The challenge is to initiate a new management program which stresses the conservation and rational allocation of these resources. A wise and forward looking program will rehabilitate our domestic fisheries while permitting controlled fishing by foreign fleets on those stocks not used or not fully used by U.S. fishermen.

The National Advisory Committee report, speaking of the National Fisheries Plan currently in preparation by the National Marine Fisheries Service, then goes on to say:

¹ Draft review copy, dated June 30, 1975.

We believe that this Plan, in conjunction with national legislation asserting jurisdiction over the living resources of a 200-mile Economic Resource Zone, and establishing some effective national control over fishing in this Zone by U.S. and foreign fishermen, will for the first time in our history, give our Nation and fishermen a greater opportunity to benefit economically and increase our food supply from these resources, while at the same time place on our Government the obligation to conserve and wisely use our fisheries.

The Committee believes it has wisely and equitably addressed both the need for increased jurisdiction and improved fisheries management with this bill. [Sec. 2]

WHAT THE BILL DOES: SECTION-BY-SECTION ANALYSIS

As indicated in the legislative background of the report, the Committee ordered reported to the House H.R. 200, with amendments. This was accomplished by striking out all after the enacting clause and substituting new language and amending the title to the bill.

There follows a section-by-section summary of H.R. 200, accompanied by discussion where appropriate.

[Sec. 1]

SECTION 1—SHORT TITLE

Section 1 would provide a short title for the legislation, to be cited as the "Marine Fisheries Conservation Act of 1975."

SECTION 2—CONGRESSIONAL FINDINGS, POLICY, AND PURPOSES

[Sec. 2(a)]

(a) *Findings.*—In subsection (a), Congress would find and declare that the fisheries resources of the United States and highly migratory species constitute an irreplaceable resource which contribute to the food supply and economy of the Nation and the health and recreation of its people; that certain stocks of these species have been the target of concentrated foreign fishing and, as a result of such fishing effort and the failure to observe sound conservation practices, certain species have become depleted to the point where the survival of the fisheries is threatened; that commercial and recreational fishing constitutes a major source of employment and contributes to the economy of the Nation and the depletion of these fisheries resources threatens the social and economic welfare of the coastal areas concerned; that United States fishermen have had their fishing efforts interfered with and their fishing gear destroyed as a result of such foreign fishing within waters off its coastal shores and without compensation for their losses; that international agreements have not been effective in halting the overfishing and depletion of these coastal stocks of fish; that both United States fishermen and foreign fishermen fish on the high seas off the coasts of the United States where no regime of law applies to foreign fishing or to require conservation practices, except pursuant to specific international agreements; that fisheries resources are renewable and if placed under sound management before depletion has caused irreversible effects can be restored

to provide optimum sustainable yield and it would be in the national interest and the interest of all nations and peoples engaged in both commercial and recreational fishing to provide for such an effective management program; and that developing international law at the United Nations Conference on the Law of the Sea proposes primary coastal state management and preference over coastal species in an economic zone extending to 200 miles and host state management and preference over its anadromous species.

[Sec. 2(b) : 2(c)]

(b) *Policy and Purposes*—In subsection (b), the Congress would declare it to be the policy and purposes of this Act for the United States to assume responsibility to manage and conserve the fisheries resources of the United States in an exclusive fisheries zone extending to 200 miles off its coastal shores, except highly migratory species (such as tuna), and to assume responsibility and management over anadromous species to the extent of their range; to support and encourage international measures for the conservation and management of highly migratory species on the basis of international fisheries agreements; to promote and encourage the fishing industries of the United States to maximize food production and recreational opportunities under sound conservation and management principles; to establish sound management programs which will achieve and maintain optimum sustainable yield from such fisheries resources; to permit foreign fishing within the 200-mile fisheries zone consistent with the conservation requirements of the various stocks, if there are excess stocks of fish not being utilized to the optimum sustainable yield by United States fishermen, after there is taken into account the efforts of United States fishermen to develop new and expanded fisheries and the fact that certain stocks of fish United States fishermen are dependent upon are now depleted; to support and encourage efforts on the part of the United States to obtain an internationally acceptable fisheries treaty at the United Nations Conference on the law of the Sea; to maintain without change the existing jurisdiction and rights of the United States in the Continental Shelf and the waters above the Shelf, other than the protection and conservation of fisheries resources as provided by this Act; and not to authorize any impediment to, or interference with, lawful activities on the high seas, except as they may relate to the conservation and protection of fisheries resources as provided by this Act.

SECTION 3—DEFINITIONS

[Sec. 3]

Section 3 would define the various terms used throughout the bill, which are as follows: "anadromous fish;" "coastal species" (which would include all species of fish other than anadromous, continental shelf, and highly migratory species); "Continental Shelf species"; "depleted"; "fisheries zone"; "fish" (which would include in general all forms of marine animal and plant life other than birds and marine mammals); "fishery"; "fishing"; "fishing vessel"; "international fisheries agreement" (which would include any bilateral or multilateral fisheries treaty, convention, or agreement to which the United States

is a party); "Marine Fisheries Commission"; "highly migratory species"; "optimum sustainable yield"; "person"; "Secretary" (which would mean the Secretary of Commerce); "State"; "stock"; and "United States".

Of the terms defined in the bill, there are four of such terms on which comments need to be made. The terms are "depleted", "optimum sustainable yield", "highly migratory species", and "State".

Optimum sustainable yield

[Sec. 3(18)]

The underlying management concept of this Act is embodied in the term "optimum sustainable yield." This concept is the cornerstone of the Congressional Findings and Statements of Policy and Purposes set forth in section 2 of the Act. All of the specific criteria set forth in title III of the Act, governing the promulgation of fisheries management plans and governing the review of such plans by the Secretary of Commerce, are designed to insure that the goal of optimum sustainable yield will be achieved.

Optimum sustainable yield is a refinement of, and takes as a point of departure, the traditional fisheries biology concept of maximum sustainable yield (MSY). MSY is simply a tool by which the level of harvest of a given stock of fish can be determined. It is in essence, the surplus production of the fishery; the safe upper limit of harvest which can be taken consistently year after year without diminishing the stock so that the stock is truly inexhaustible and perpetually renewable.

The measurement of MSY as a scientific tool has been refined dramatically in the past decade to the point where today fisheries biologists are no longer dealing with the MSY of individual stocks, but are rather dealing with the MSY of the integrated biomass of large ocean areas such as the Northwest Atlantic Ocean. This is particularly critical today when certain stocks within a large biomass are depleted and others are still in abundance. The depleted stocks may be secondary targets or even unavoidable targets of the fishing effort for stocks in abundance. The concept of maximum sustainable yield is well understood, not only by expert fisheries biologists, but by fishermen also. For this reason, there was considerable support before the Committee for adopting MSY as the basis for management. On the other hand, a responsible body of opinion supported the proposition that the Committee should not give statutory recognition to MSY since it was felt that the concept had been discredited as an effective management tool, largely as a result of the notable failures of the International Commission for the Northwest Atlantic Fisheries under the ICNAF Convention. The Committee believes that the failure of ICNAF has not discredited MSY as a management tool, but rather points up clearly the fact that MSY is only a tool and cannot be expected to accomplish anything in the absence of a sound, comprehensive management system. The Committee believes that MSY must be established for each managed species before intelligent decisions regarding optimization of fisheries can be achieved.

Once the MSY of the fisheries or stock has been determined with reasonable scientific accuracy, and the same determination made with

respect to the total biomass of an ocean area where many different, but inter-related fisheries occur, the developer of a management plan can begin to think in terms of the optimum sustainable yield (OSY). Thus while biologists in the past have tended to regard any unused surplus of a fishery as waste, the resource manager may well determine that a surplus harvest below MSY will ultimately enhance not only the specific stock under management, but also the entire biomass. Conversely, the fisheries manager may determine that the surplus harvest of the entire biomass must be reduced substantially below MSY, in order to restore a valuable depleted stock which is taken incidentally to the harvesting of other species in this biomass. An example of such a situation has occurred in the Northwest Atlantic where mindless overfishing for haddock has virtually wiped out the species. A zero quota for haddock will not permit that species to restore itself since other fisheries in the Northwest Atlantic cannot be conducted without taking haddock. Accordingly, the harvest of these other species must be reduced below their MSY to reduce the incidental catch of haddock.

The preceding concepts relate to the biological well-being of the fishery. The concept of optimum sustainable yield is, however, broader than the consideration of the fish stocks and takes into account the economic well-being of the commercial fishermen, the interests of recreational fishermen, and the welfare of the nation and its consumers. The optimum sustainable yield of any given fishery or region will be a carefully defined deviation from MSY in order to respond to the unique problems of that fishery or region. It cannot be defined absolutely for all stocks of fish or groups of fishermen, and will require careful monitoring by the Regional Marine Fisheries Councils and the Secretary of Commerce. While optimum sustainable yield may have many complex components, their quantification should not be beyond the capability of the broad range of individuals who will serve on the Councils, supported by trained economists and marine biologists. Optimum sustainable yield will, as indicated above, employ a well-understood and time-proven concept of maximum sustainable yield as its basis while allowing for other relevant economic and social inputs. The Committee believes that the careful balancing of roles and responsibilities under the Act between the Councils, the Secretary and the public will insure that these inputs are not distorted and that optimum sustainable yield will achieve the purposes of the Act.

Highly migratory species

[Sec. 3(14)]

The term "highly migratory species," as defined in the bill, means any species of fish which spawn and migrate during their life cycle in waters of the high seas, in and outside the fisheries zone, including—but not limited to tuna—but excluding halibut, sablefish, and herring.

The highly migratory species which would be excluded from the coverage of this Act would include, among others, the following: Albacore tuna, bluefin tunas, bigeye tuna, skipjack tuna, yellowfin tuna, blackfin tuna, little tuna, Frigate mackerels, pomfrets, marlin, sailfishes, swordfish, sauries, dolphin (fish), and oceanic sharks.

The Committee is aware that there are a number of fish that are considered as migratory—as distinguished from highly migratory—that should not fall within the definition of highly migratory species. Therefore, such species as halibut, sablefish, and herring were specifically excluded from the definition of highly migratory species. The intent of the Committee is to make it clear that these species are covered by this Act and would be included in the list of species to which fisheries management responsibility and authority of the United States extends.

Depleted

The term “depleted,” as defined in the bill, means a species of fish or a stock of the species that has been so reduced as a result of over-fishing or other natural or induced causes that a substantial reduction in fishing effort must be achieved in order for the stock to replenish itself and once again provide an optimum sustainable yield.

After considering the testimony and evidence offered at the hearings, the Committee has concluded that the following stocks of fish of direct interest and importance to United States fishermen are depleted: Alaska pollock, California sardine, haddock, halibut, herring, ocean perch, Pacific mackerel, sablefish, yellowfin sole, and yellowtail flounder. These resources have been and are the subject of competitive harvesting by both foreign and domestic fishermen.

The Committee is aware that there are other species of fish that will qualify as being depleted. The most obvious ones have been enumerated in this report. The Committee expects the Secretary to carefully study those species of fish that may possibly fall within this definition and take the necessary steps to see that they receive proper management as the results of improper management are reversible if appropriate action is taken in time.

State

[Sec. 3(21)]

The term “State”, as defined in the bill, means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the possessions of the United States.

A question arose during the Committee’s consideration of H.R. 200 as to its effect on the Nicholson Act (46 U.S.C. 251–252). The Nicholson Act prohibits, except as permitted by treaty or convention, a foreign-flag vessel, whether documented as a cargo vessel or otherwise, from landing in a port of the United States its catch of fish, etc.

The Treasury Department, in interpreting the Nicholson Act, has determined that a foreign-flag vessel is not prohibited from landing in America Samoa, as well as in Guam, its catch of fish or fish processed taken on board such vessel on the high seas from a vessel engaged in fishing operations or in the processing of fish or fish products.

Consequently, neither American Samoa nor Guam themselves nor any port or place in them are a “part of the United States” within the meaning of the Nicholson Act.

The Committee would like to make it clear that nothing in this Act would, or is intended to, affect that Act, and in particular, the Treasury Department’s interpretation of that Act.

Also, it should be further noted that since the Trust Territory of the Pacific Islands is operated by the United States pursuant to the terms of a trusteeship agreement with the United Nations and is not considered to be a possession of the United States, it is not included within the coverage of this Act.

TITLE I—ESTABLISHMENT OF UNITED STATES FISHERIES CONSERVATION AND MANAGEMENT ZONE EXTENDING TO THE 200-MILE LIMIT

SECTION 101—ESTABLISHMENT OF FISHERIES CONSERVATION AND MANAGEMENT ZONE

[Sec. 101]

Section 101 would define the breadth of the fisheries conservation and management zone by reference to the baseline, from which the breadth of the territorial sea is measured. The seaward boundary of the zone would be a line drawn so that each point thereon is 200 nautical miles from the baseline. Since the zone is contiguous to the territorial sea it is in fact 197 nautical miles in breadth. This method of measuring the breadth of the fisheries zone differs from that employed in the 1966 Act establishing the existing 9-mile contiguous zone. The 1966 Act defined both the inner and seaward boundaries of the zone so that the seaward boundary was established by reference to the inner boundary. Under that system of measurement, an extension of the breadth of the territorial sea would automatically extend the outer boundary of the fisheries zone by an equivalent distance. It now appears reasonably certain that as a treaty emerges from the Third United Nations Conference on the Law of the Sea, coastal state jurisdiction of fishery resources at least, will be fixed at 200 nautical miles. At the same time, it appears likely that territorial seas will be fixed at 12 nautical miles. Under the system of measurement established in this Act, the territorial sea may be expanded to 12 miles without disturbing the 200 nautical mile seaward boundary of the fisheries conservation and management zone. Any extension of the territorial sea will automatically contract the breadth of the zone by by an equivalent distance, obviating the need for any amendment to this Act to maintain the outer boundary of such zone at 200 nautical miles.

SECTION 102—EXCLUSIVE RIGHTS OF UNITED STATES WITHIN ZONE

[Sec. 102]

The first sentence of this section would simply restate existing law. The United States will exercise with respect to fisheries the same jurisdiction that it exercises in the territorial sea. The zone established by this Act differs from the zone established by the Act of 1966 only with respect to its dimensions. The second sentence of section 102 would make it clear that the recognition of foreign fishing rights upon the effective date of this title, will be governed exclusively by the provisions of this Act. In this connection, it should be noted that section 402 of this Act would amend the Act of May 20, 1964, the so-called

Bartlett Act, to eliminate from that Act the procedures formerly set out for the granting of foreign fishing rights within the territorial sea or the present 9-mile contiguous zone. The authority of the Bartlett Act to permit fishery research is the sole exception to section 102 that was carried forward. This exception would permit foreign fishing by international organizations for research pursuant to this Act.

SECTION 103—ADJUSTMENT OF BOUNDARY

[Sec. 101]

This provision is identical to language appearing in the 1966 Act authorizing the President to adjust the boundary of the zone where it conflicts with that of other nations. This authority would permit the President to establish by Proclamation the boundary of the zone between the United States on the one hand and Canada, Mexico, Cuba and other Caribbean nations, and the Soviet Union. It is expected that the Secretary of State on behalf of the President will promptly undertake negotiations with these nations to arrive at equitable boundary agreements.

SECTION 104—STATE JURISDICTION

[Sec. 306]

This provision is intended to make it crystal clear that this Act does not prejudice any claim of any State to natural resources beyond the territorial sea of the United States. At the same time, the Act is not intended to diminish State jurisdiction or to authorize any federal encroachment over the management or control of any natural resources within any internal waters of any State. There is no authority in the Act for a fishery management plan to regulate the taking of fishery resources in the internal waters of the States. With respect to the territorial sea, however, section 104 would authorize an exception pursuant to section 309. **[Sec. 306]** Fisheries management plans may, under very limited circumstances set forth in section 309, **[Sec. 306(b)(1)]** regulate fishing within the territorial sea and supersede State regulations applicable to the territorial sea.

SECTION 105—REPEALER

[Sec. 402]

This section would repeal the Act of October 14, 1966, which established the 9-mile contiguous zone.

SECTION 106—EFFECTIVE DATE

[Sec. 104]

This section would provide that title I shall take effect July 1, 1976, therefore, the present 9-mile contiguous zone would remain in effect until that date.

In this regard, it should be noted that since title I of the Act does not take effect until July 1, 1976, the provisions of section 201 would not be operative until that date. It is, however, incumbent upon the Secretaries of Commerce, Transportation, the Coast Guard, and the Secretary of State to begin immediately to prepare for the full imple-

mentation of section 201 [Sec. 201] since there is no authority for continued fishing by foreign vessels after July 1, 1976, except pursuant to the procedures set forth in section 201. [Sec. 201] Of course, treaties governing fishing within the extended fisheries zone would be honored subject to the renegotiation provisions of section 202(b). [Sec. 202(b)] Also, other international fisheries agreements would be honored, but such agreements could not be extended or renewed except pursuant to this Act. [Secs. 201; 202]

Any bilateral fisheries agreement that might be entered into after the date of enactment of the Act and any amendment entered into after such date to any international fishery agreement entered into before such date would be subject to the disapproval provisions of section 206. [Sec. 203] Given the relatively short time remaining to July 1, 1976, it is expected that the Secretary of State will use great discretion and restraint in the execution of bilateral fisheries agreements which might tend to delay or impede the full effectiveness of the extension of the fisheries zone to 200 miles. [Secs. 201; 202]

The provisions of title III of the Act setting forth the management procedures and providing for the establishment of Regional Marine Fisheries Councils would become effective on the date of enactment of this Act and it is the Committee's profound hope that these Councils will be fully operative by July 1, 1976. [Sec. 104]

TITLE II—INTERNATIONAL FISHERIES AGREEMENTS

SECTION 201—FISHING BY FOREIGN VESSELS IN THE FISHERIES ZONE AND SEAWARD OF THE ZONE FOR MANAGED ANADROMOUS SPECIES

[Sec. 201]

(a) *Permits Required of Foreign Vessels.* [Sec. 201(a)]—Subsection (a) would make it clear that no foreign fishing vessel could engage in fishing within the 200-mile fisheries zone of the United States or seaward of the zone for anadromous species managed pursuant to a plan implemented under this Act unless such vessel has on board a valid permit issued by the Secretary.

(b) *Application for Permits.* [Sec. 201(b)]—Subsection (b) would set forth the procedure to be followed and the information to be contained in the application by a foreign nation seeking a fishing permit on behalf of vessels registered under its flag. The application for such a permit would be required to be filed with the Secretary of State.

(c) *Transmission of Application for Actions.* [Sec. 204(b)(4)]—Subsection (c) would require the Secretary of State, upon receipt of an application for a permit by a foreign nation, to promptly transmit, such application, together with his comments and recommendations, to the Secretary. Also, he would be required to submit a copy of the application to the Secretary of the department in which the Coast Guard is operating.

Naturally, the Committee would expect the Secretary, in turn, to immediately transmit a copy of each application to the appropriate regional marine fisheries council and seek the views and recommendations of such council on the application.

(d) *Tentative Approval of Application and Preparation of Statement of Conditions and Restrictions.* [Sec. 204 (b) (6) ; 204 (b) (7)]—in determining whether or not to approve an application, subsection (d) would require the Secretary, upon receipt of the application, to consult with the Coast Guard, with respect to enforcement, and to consider the views and recommendations of the Secretary of State and the appropriate regional marine fisheries before making his decision. If the Secretary determines that the fishing activity proposed in the application is consistent with the policy and purposes of this Act and with the fisheries management standards set forth in section 302(c), and after taking into account traditional or historical fishing, if any, by the applicant nation for the species involved, the Secretary would tentatively approve the application. However, should the application involve a species for which a fishery management plan is being developed, tentative approval could be given only if the species involved is not depleted.

Once the application has been tentatively approved, the Secretary would be required to prepare a statement of the conditions and restrictions which would apply to the fishing in which the foreign vessels proposes to engage and to which the foreign country must agree before any permit could be issued.

Also, subsection (d) would enumerate certain conditions and restrictions that must be included and become a part of any permit issued. Among those conditions and restrictions are the following: provision for adjustment in the number of fishing vessels for which permits may be issued; the requirements imposed by any fishery management plan, if the application involves a managed species; if the application involves other than a managed species, such conditions and restrictions deemed appropriate with respect to tonnage, catch, gear requirements, statistical reporting, etc.; enforcement conditions, including but not limited to display of the permit in the wheelhouse of the vessel, surrender of the permit to any authorized officer boarding and inspecting the vessel, requirements for on-board observers and reimbursement to the United States for the cost of such observers, and the prepayment of any license fees which may be levied in the case of a managed species; and, if in the case of a species (not depleted) for which a management plan is being developed, the provisional application of the conditions and restrictions of this subsection with the understanding that the Secretary could amend the permit to conform such conditions and restrictions to the plan requirements.

(e) *Special Considerations in Case of Application To Fish for Species for which Fishery Management Plan is Being Developed.* [Sec. 201 (g) ; 204 (b) (7)]—Under this subsection, the Secretary could tentatively approve an application for fishing by foreign vessels for a species with respect to which a fishery management plan is developed but only if the Secretary determines that the species is not depleted.

(f) *Congressional Action on Application.* [Sec. 203]—Subsection (f) would make it clear that each application tentatively approved by the Secretary, together with the attached conditions and restrictions, would be deemed to be an international fisheries agreement to which Congressional review and possible disapproval of such application would be applicable as provided by section 206.

(g) *Issuance of Permits.* [Sec. 204(b)(11)]—After the 60 day waiting period required by section 206, if neither the House nor the Senate disapproves a tentatively approved application, the Secretary of State would be required to transmit to the foreign nation concerned a statement of the conditions and restrictions prepared by the Secretary to be attached to such application. Upon acceptance of the application, together with the attached conditions and restrictions, the Secretary would be required to issue to the Secretary of State a permit for each fishing vessel covered by the application. In turn, the Secretary of State would transmit the permits to the foreign nation for distribution to the operators of such vessels. Naturally, passage of a resolution of disapproval by either House would nullify the application.

(h) *Suspension or Revocation of Permits.* [Sec. 204(b)(12)]—Subsection (h) would authorize the Secretary to suspend or revoke a permit if he finds that the vessel to which the permit was issued has been repeatedly used in the commission of acts in violation of the conditions or restrictions attached to such permit for which civil penalties are assessed.

In those situations in which a vessel is involved in such repeated violations, and there is no seizure of such vessel pursuant to such violations, and a civil penalty is assessed but is not paid within a reasonable time, the Secretary would be required to suspend the permit issued to that particular vessel until such time as the assessment is paid.

This subsection would also make it clear that any fishing by a foreign vessel in the fisheries zone or seaward of the zone for a managed species (anadromous) during the period of revocation or suspension of its license would be deemed to be a violation of the Bartlett Act, thereby making such vessel subject to the stiffer penalties of that Act.

(i) *Issuance of Warnings.* [Sec. 204(b)(12)]—This subsection would authorize an enforcement officer, in lieu of citing the vessel for a formal violation for which a penalty could be imposed, to issue a warning to the master of such vessel for violating the conditions or restrictions of a permit when he deems such violations to be minor in nature. Any warning issued would be required to be noted in writing on the permit.

The Committee envisions enforcement officers in situations of this nature as functioning similar to traffic officers when issuing warnings for minor traffic violations. Naturally, the Committee expects the enforcement officer to take into consideration the number of warnings, if any, noted on a particular permit when making his decision as to whether to cite the master of the vessel for a violation under section 310(2) or to issue a warning to the master of such vessel.

(j) *Application and Permit Forms.* [Sec. 204(b)(2)]—This subsection would require the Secretary, after consultation with the Secretary of State and the Secretary of the Department in which the Coast Guard is operating, to prescribe appropriate application and permit forms to be used pursuant to this Act.

It is to be noted that the permit form would have to be large enough to provide for the inclusion of such information as may be necessary to adequately inform enforcement officers of the conditions and restrictions attached to the permit which apply to the vessel.

(k) *Special Treatment for Fishery Management Plans Which Apply Seaward of the Fisheries Zone to Anadromous Species.* [Sec. 102(2); 201(a); 202(a) (4) (B); 204(a)]—(1) *Plans deemed unilateral conservation measures.*—This subsection would provide that any fishery management plan prepared by a regional marine fisheries council or the Secretary which applies to any anadromous species seaward of the fisheries zone would be deemed to be a unilateral measure of conservation on the part of the United States within the meaning of Article 7 of the Convention on Fishing and Conservation of the Living Resources of the High Seas (hereinafter referred to in this report as the Convention).

It is to be noted that this Convention has been ratified by 33 countries, including the United States. It imposes on all contracting Governments the duty to adopt, or to cooperate with other contracting Governments in adopting, such measures for their respective nations as may be necessary to conserve high seas fisheries resources. The Convention also allows a coastal nation to assert a special interest in the productivity of those living resources which may be found on the high seas adjacent to its territorial sea, and requires other contracting Governments to recognize this special interest. In addition, Article 7 of the Convention allows a coastal nation to unilaterally adopt conservation measures on stocks of fish in any area adjacent to its territorial sea, provided negotiations to secure an agreement with other nations to abide by such measures have not led to an agreement within six months, and provided further, that there is a need for urgent application of conservation measures based on scientific findings, and that the regulatory measures are not discriminatory.

(2) *Suspension of taking effect of plan.*—Paragraph (2) of this subsection would make it clear that the regulations promulgated to implement the fishery management plan, to the extent it would apply to anadromous species seaward of the fisheries zone, would not come into force and effect until the close of the six-month period following the date of the promulgation of such regulations. During such six-month period, the Secretary of State would be required to try to obtain agreements from other countries signatory to the Convention—as well as nonsignatory countries—that would require the vessels of such countries to comply with the plan and implementing regulations.

(3) *Entering into force and effect of plan.*—Paragraph (3) of this subsection would provide that after the close of the six-month period, the fishery management plan, to the extent it applies seaward of the fisheries zone, and the implementing regulations would have force and effect within the area seaward of the fisheries zone to which it applies.

(4) *Suspension of enforcement by the United States of plan seaward of the fisheries zone.*—Paragraph 4 of this subsection would make it possible for foreign nations to police its own vessels. In this regard, if

permits are issued by the Secretary to fishing vessels of any foreign nation which authorizes them to engage in fishing for any anadromous species to which a management plan applies seaward of the fisheries zone, the United States would refrain from enforcing the conditions and restrictions imposed with respect to such permits if the foreign nation concerned gives written assurance to the Secretary of State that it will regulate such vessels in accordance with such conditions and restrictions.

However, two conditions must be met before such country can police its own vessels: the Secretary of State must find that the penalties imposed by that country against its vessels are equivalent to the civil penalties imposed by the United States under section 311 for violation of any condition or restriction applicable to a permit and that such nation stringently assesses such penalties against its vessels or nationals which violate such conditions or restrictions.

It is to be noted that this self-policing provision is applicable only so long as these requirements are fulfilled. Once the Secretary of State determines that such country no longer meets these conditions, then such authority lapses and the vessels of such nation would become subject to the penalties of this Act or the Bartlett Act, as the case may be.

(1) *Continental Shelf Species*. [Sec. 307(2)(B)]—This subsection would make it clear that nothing in this Act, except as provided by title IV, shall be construed to extend to any foreign vessel the right or privilege to engage in fishing for any Continental Shelf species. However, in rewriting section 1 of the Bartlett Act, title IV would retain the language of that Act that allows foreign vessels owned or operated by an international organization, of which the United States is a party, to engage in fishery research for Continental Shelf fisheries resources.

The Committee is not aware of this privilege ever having been extended since the inception of the Bartlett Act, some ten years ago. Consequently, except under most rare circumstances, Continental Shelf species will not be allowed to be taken by foreign vessels.

SECTION 202—TREATMENT OF CERTAIN EXISTING INTERNATIONAL FISHERIES AGREEMENTS

(a) *Application of Act to Existing Agreements*. [Sec. 201(b)]—Subsection (a) would make it clear that any international fisheries agreement (except a fisheries treaty) which is in effect on July 1, 1976, and which pertains to fishing within the fisheries zone or to species or stocks of fish or fisheries with respect to which the United States may exercise management and authority under this Act could not be extended or renewed except pursuant to this Act.

This subsection would primarily affect the bilateral fisheries agreements now in force and effect with such countries as Japan, Russia, and Poland as they relate to fishing for certain species of fish in the existing 12-mile fisheries zone.

(b) *Renegotiation of Treaties*. [Sec. 202(b)]—This subsection would require the Secretary of State, in consultation with the Secre-

tary and the Secretary of the Department in which the Coast Guard is operating, immediately after the date of the enactment of this Act to take the appropriate steps to renegotiate all treaties (within the meaning of section 2 of Article II of the Constitution) which pertains to fishing within the fisheries zone or which pertain to species, stocks of fish, or fisheries with respect to which the United States may exercise management and conservation authority under this Act. The renegotiations would be designed to conform such treaties to the provisions and requirements of this Act.

It is to be noted that section 2 of Article II of the Constitution gives to the President the power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur. There are a number of treaties which would be affected by this subsection, two of the more important are as follows: the International Convention for the Northwest Atlantic Fisheries and the International Convention for the High Seas Fisheries of the North Pacific Ocean.

(c) *Reports to Congress.* [Sec. 203]—This subsection would require the Secretary of State to submit to the Congress a written report on or before May 15, 1976, and annually thereafter, on the results of the negotiations pertaining to the treaties covered by subsection (b).

The Committee selected the date of May 15, 1976, for the first report on the results of the renegotiations since the new 200-mile fisheries zone would come into force and effect on July 1, 1976. The Committee is most hopeful that the Secretary of State will act promptly and with vigor in renegotiating these agreements with the countries concerned so that the fisheries involved can receive the protection to which they are entitled.

SECTION 203—NEGOTIATIONS TO PRESERVE CERTAIN UNITED STATES FOREIGN FISHING RIGHTS

(a) *Commencement of Negotiations.* [Sec. 202(a)]—Subsection (a) would require the Secretary of State, within 90 days after the date of enactment of this Act, to commence negotiations with each foreign nation off of whose shores United States vessels are engaged in fishing for specific stocks of fish within 200 miles of the coast of such nation. The purpose of such negotiations would be to obtain fishery agreements with such nations that would allow United States vessels to continue fishing for such stocks of fish in the 200-mile zone of such nations.

For example, it is to be noted that a number of United States vessels have been and are engaged in fishing for shrimp off the coast of Brazil and Mexico. The Secretary of State would be expected to make every effort to see that these vessels are allowed to continue fishing for shrimp in such waters off the coast of these nations. Naturally, this subsection would apply to any stock of fish United States vessels are engaged in fishing off foreign shores at the time this Act comes into force and effect.

(b) *Action if Foreign Nation Refuses To Negotiate or Violates Treaty.* [Sec. 205]—Subsection (b) would set forth the procedures to

be allowed in case a foreign nation off of whose shores United States vessels are fishing for certain stocks of fish refuses to cooperate in allowing this fishery to continue. In this regard, if the Secretary of State determines that any such foreign nation is refusing to commence negotiations or fails to negotiate in good faith or, although an agreement is in force and effect, the foreign nation is not complying with its obligations under the agreement, then the Secretary of State would be required to certify this determination to the Secretary of the Treasury. Upon receipt of any such certification, the Secretary of the Treasury would be required immediately to take appropriate action to prohibit the importation into the Customs territory of the United States of any seafood products of that foreign nation.

It is to be noted that this subsection also would immediately trigger the certification that would be required to be made by the Secretary of the State to the Secretary of the Treasury whenever there is a seizure of a United States fishing vessel which is reimbursable under section 3 of the Fishermen's Protective Act by any foreign nation off whose coast United States vessels are engaged in fishing for specific stocks of fish. Such a certification would consequently trigger the import prohibition of any seafood product from the foreign nation concerned.

(c) *Duration of Import Prohibition.* [Sec. 205(c)]—This subsection would require any import prohibition which is imposed to remain in effect until the Secretary of State certifies to the Secretary of the Treasury that (1) an agreement has been reached, in the case of a foreign nation refusing to commence negotiations or fails to negotiate in good faith, or (2) such foreign nation is complying with its obligations, in the case where an agreement with such nation was in effect.

(d) *Definition.* [Sec. 205(d)]—This subsection would define the term "seafood product" to mean any fish or any article which is composed in whole or in part of any fish which are products of such nation. However, to be excluded during the terms of any import prohibition would be any such fish or article if the fish or the fish constituting the article are harvested by United States vessels, irrespective of point of harvesting or offloading. In other words, if harvested by United States vessels such fish or fish constituting the article would not be considered to be a seafood product of the nation affected by the import prohibition.

SECTION 204 [SEC. 202(a)(4)(B)]—NEGOTIATIONS REGARDING HIGHLY MIGRATORY SPECIES

This section would require the Secretary of State, upon the request of, and in cooperation with, the Secretary to initiate negotiations with any foreign nation participating in a fishery for any highly migratory species for the purpose of entering into international agreements that would establish an international body having authority to manage and conserve such highly migratory species.

In this regard, there are two international conventions now in force and effect which are designed to manage and conserve highly migratory species. They are the Convention for the Establishment of

an Inter-American Tropical Tuna Commission (IATTC) and the International Convention on the Conservation of Atlantic Tunas (ICCAT).

IATTC member countries are Costa Rica, United States, Mexico, Panama, Canada, Japan, and France. The species covered by this Convention are yellowfin and skipjack tuna and tuna bait fishes in the Eastern Pacific Ocean area. ICCAT member countries are Japan, Canada, United States, Brazil, France, Portugal, Spain, Morocco, Ghana, Republic of South Africa, Korea, Senegal, Cuba, and the Ivory Coast. The species covered by this Convention are tuna and tuna-like species in all waters of the Atlantic Ocean.

Testimony received at the Committee hearings indicated that in particular IATTC has not been as effective as it should have been. Enforcement has been a major problem. Traditionally, international fishery agreements provide for the enforcement of each Convention by each signatory nation as to their own citizens. Another chronic problem has been the fishing of managed species by nations not signatory to the Convention.

Nevertheless, since IATTC and ICCAT are already in existence, the Committee is most hopeful that the Secretary of State can build on this framework and will be successful in obtaining an agreement with all nations whose vessels fish for these highly migratory species to become signatories to such Conventions and to require their citizens to comply with the regulations of these Conventions.

SECTION 205 [SEC. 401]—MULTILATERAL CONVENTION

This section would provide for the advance authority for the promulgation of regulations by the Secretary to conform the regulations issued pursuant to this Act to the fisheries provisions of any convention that may grow out of the United Nations Conference on the Law of the Sea once it has been ratified by the United States. In promulgating such regulations, the Secretary would be required to follow the regular procedure called for in section 307.

SECTION 206 [SEC. 203]—CONGRESSIONAL DISAPPROVAL OF CERTAIN INTERNATIONAL FISHERIES AGREEMENTS

Congressional action with respect to international fishery problems has been extensive during the past decade beginning with the Act of May 20, 1964, the Bartlett Act, which established the prohibition against foreign fishing in the territorial sea and in waters in which the United States maintains the same fishery jurisdiction as it has in its territorial sea. This basic protection of American fisheries was followed in 1966 by the enactment into law of the nine-mile contiguous fisheries zone (Public Law 89-658).

The establishment of a twelve-mile belt of protected ocean waters and the equally important steps taken in the Fishermen's Protective Act of 1967 to give the modicum of United States support to American fishermen illegally seized off the shores of other nations marked the beginning of intense Congressional effort to convince the Department

of State and successive Administrations that a vital national resource, our fisheries and our fishing industry, are in grave danger. Each of these many steps has been resisted or, wherever possible, frustrated.

Increased Congressional efforts were in response to a massive increase in the level of foreign fishing off our shores by nations such as the Soviet Union, which has had no historic presence in American waters and whose fishing techniques were utterly destructive of the resources which the United States had naively considered inexhaustible.

The response of the United States government to the crisis of the past decade has been embodied in a growing number of bilateral fisheries agreements. The pattern of these agreements has been along the following lines. Nation A, which has not previously fished in American coastal waters, begins to send significant numbers of fishing vessels to our coastal shores. This fishing effort may be directed at species which American fishermen are not primarily engaged in taking, but the stocks upon which American fishermen rely cannot be avoided by the foreign vessels. After several years of ever-increasing fishing effort and after the American fishermen begin to experience a serious decline in their catch, the State Department undertakes negotiations for an agreement whereby Nation A will refrain from fishing in designated waters beyond the exclusive fisheries zone of the United States during particular seasons which are of the greatest importance to the American fisherman. In return for such enlightened behavior by the fishing vessels of Nation A, which are in most cases state-owned and operated, the United States grants work privileges and a variety of other concessions to the foreign vessels. In no case, however, does Nation A desist from fishing in American coastal waters nor does it allow American inspectors on board its vessels to regularly monitor their activities without advance notice.

These bilateral agreements have many variations, but the theme is always the same—*quid pro quo*. There is no recognition that the fishery resources are exhaustible, or that they should not be exploited to the point of total destruction, except in return for concessions from the United States that will render the foreign fishing effort more efficient and profitable in the long run, such as the right to re-supply in American ports rather than make the long voyage home or maintain greatly increased supply forces at sea.

The role of the American fisherman during these bilateral negotiations, vital as they are to his welfare, has been effectively limited to that of observer and unofficial advisor to the State Department negotiators.

The role of Congress has been limited, by reason of the decision not to submit such agreement to the ratification process, to one of oversight. Such oversight is invariably after the fact and in a climate which is not conducive to a meaningful probate of what should have been accomplished in the negotiations versus what was actually agreed to in order to insure that our fishery resources receive maximum protection. All too often in the many oversight hearings, which have been held during the past decade, the negotiators stock position has been, in effect, "This was the best deal we could get under the circumstances."

The state of our fisheries today clearly demonstrates that the best was frequently not good enough. It is also clear that most of these agreements could not have withstood the ratification process had the constitutional route been followed.

It is for these briefly described reasons that there is an overwhelming need to insure that the utterly bankrupt negotiating procedures of the past decade are not repeated after enactment of this Act. No longer will it be necessary for the United States to go, hat in hand, to foreign capitals to give concessions in return for minimal recognition of conservation principles by the many foreign nations now fishing off our shores.

The procedures set forth in section 201 [Sec. 201] will insure that foreign fishing will be conducted on a basis which places conservation of the resources at the center of all considerations. Those who do not choose to adhere to these principles simply need not apply for the privilege of fishing off our shores. Those who agree to be bound by United States conservation practices can be assured of fair treatment and access to resources which will help to feed their people for years to come. [Secs. 201(d) ; 201(e)]

The procedures contained in section 206 [Sec. 203] would recognize that the agreements which will be entered into under Section 201 [Secs. 201 ; 202] should not have the status of treaties, thus continuing a precedent well established by the State Department. At the same time, these procedures recognize that the oversight role of Congress cannot be effectively undertaken unless there is adequate review and deliberation before these agreements become a reality. [Sec. 203]

Given the clearcut and uniform requirements embodied in section 201 [Sec. 201], which will govern all agreements authorizing foreign fishing, it is unlikely that either House of Congress will be compelled to disapprove an agreement [Sec. 203]. Section 206 [Sec. 203] would simply guarantee that requirements of section 201 [Secs. 201 ; 202] will be religiously followed in the future.

Section 206(a) [Sec. 203(a)] would provide that any international fishery agreement other than a treaty, would take effect sixty days after submission to both Houses of Congress, provided neither House adopts a resolution of disapproval.

The requirements of section 206(a) [Sec. 203(a)] would apply to amendments to any existing bilateral agreement, virtually all of which will expire by their terms before July 1, 1976, and to all section 201 [Secs. 201 ; 204] applications for foreign fishing privileges. It is expected that the executive branch will use great discretion in extending any bilateral agreement which will not conform to the requirements of section 201 [Secs. 201 ; 202] during the period prior to July 1, 1976.

Section 206(b) [Sec. 203(d) (2)] would define the resolution of disapproval, and section 206(c) [Secs. 203(d) (4) ; 203(d) (5)] would set forth the mechanism for consideration of such a resolution in the House of Representatives and the Senate as an exercise of their rule-making powers.

Section 206 [Sec. 203] is patterned after numerous provisions of the Trade Act of 1974 (Public Law 93-618). In particular, section 152 of that Act sets forth basic procedural steps to be followed in implementing other substantive provisions of that Act.

The procedure for disapproval by either House of Congress is embodied in section 407(c) (2) and (3) with respect to the extension of non-discriminatory treatment to the products of certain nations and with respect to trade with nonmarket economy countries.

Other sections of the Trade Act provide for disapproval by both Houses of Congress or for approval by both Houses of certain executive decisions or actions. It is believed, however, that the procedure for disapproval by either House is most appropriate to this Act, the Marine Fisheries Conservation Act of 1975, given the history of bilateral negotiations that have occurred during the past decade.

The Foreign Assistance Act of 1974 (P.L. 93-559) also contains provisions for Congressional disapproval of certain Presidential actions. These include Section 42, which amends the Foreign Assistance Act of 1961 with respect to the Special Requirements Fund, and Section 45, which amends the Foreign Military Sales Act with respect to sales involving more than \$25 million.

The procedures set forth in Section 206 [Sec. 203] of this Act are therefore consistent with review process already well established with respect to actions of the executive branch in critical areas of international activity. They are most appropriate to this legislation, since it deals with utilization of natural resources over which the United States will assume total responsibility and control.

TITLE III—MANAGEMENT OF THE SPECIES

SECTION 301—UNITED STATES JURISDICTION OVER CERTAIN FISHERIES

(a) *In General* [Sec. 102].—Subsection (a) would clearly describe those species or categories of fish over which the United States will exercise management responsibility and authority under this Act. In general, they would include all species of fish except highly migratory species. In particular, the Act would cover all coastal [Sec. 102(1)], anadromous [Sec. 102(2)], and continental shelf species [Sec. 103(3)] as defined in section 3 [Sec. 3] of this Act.

(b) *International Regulation of Highly Migratory Species* [Sec. 103].—This subsection would make it clear that this Act does not cover highly migratory species, such as tuna, and that the United States does not recognize the right of any foreign country to extend its rights, claims or jurisdiction to such species. As pointed out in section 2 of this Act, it is the policy of the United States to encourage international measures for the conservation and management of highly migratory species. Furthermore, consistent with this policy, subsection (b) would reiterate the United States position that it will not recognize any management of such species except pursuant to international fishery agreements established for such purposes.

SECTION 302—FISHERIES MANAGEMENT RESPONSIBILITIES OF THE SECRETARY

(a) *In General* [Sec. 304].—This subsection would require the Secretary to manage all fisheries over which the United States has fishery management responsibility and authority (coastal, anadromous, and

Continental Shelf species) pursuant to the provisions of this Act. The proper management of any such fishery would result in the regulation of fishing by both foreign and domestic vessels as may be deemed necessary to carry out the policy and purposes of this Act.

In carrying out such management functions, the Committee expects the Councils, to the maximum extent possible, to be utilized by the Secretary.

(b) *Management Pursuant to Management Plan* [Sec. 304(c)].—This subsection would merely provide that no fishery, for which management authority is provided under section 301(a), could be managed by the Secretary except pursuant to a management plan which is prepared by the Council pursuant to section 304, except as provided in section 305(d) of 308. Section 305(d) would allow the Secretary to prepare his own management plan for a particular fishery when the Council concerned fails to prepare such a plan within a reasonable time after requested by the Secretary to do so or if the Secretary disapproves of an amended plan submitted by the Council. Section 308 would require the Secretary—within 90 days after this Act comes into effect—to prepare a plan with respect to depleted stocks of coastal or Continental Shelf species.

(c) *National Fisheries Management Standards* [Sec. 301].—This subsection would require any fisheries managed pursuant to this Act to be consistent with certain national fisheries management standards. In general, the standards enumerated in this subsection would require management and conservation measures: (1) To be based upon the best scientific biological information available; (2) to be nondiscriminatory between residents of different States; (3) to be designed to achieve the optimum sustainable yield of a stock of fish on a continuing basis; (4) to promote efficiency in harvesting techniques; (5) to result in reasonable administration or enforcement costs; and (6) to be designed to prevent depletion of fisheries resources.

With respect to the standard that requires such measures to be nondiscriminatory between residents of different States, the Committee would like to make it clear that this subparagraph would require the management plan to provide for uniform and equal treatment of United States citizens and corporations operating or engaging in the fisheries concerned without regard to their particular residence or State of incorporation.

SECTION 303—REGIONAL MARINE FISHERIES COUNCILS

(a) *Establishment* [Sec. 302(a)].—This subsection would provide for the establishment of seven regional marine fisheries councils. The New England Council would include the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut. The Mid-Atlantic Council would include the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, and Virginia. The Southern Atlantic Council would include the States of North Carolina, South Carolina, Georgia, Florida, and the Commonwealth of Puerto Rico and the Virgin Islands. The Gulf Council would include the States of Texas, Louisiana, Mississippi, Alabama, Florida, and the Commonwealth of Puerto Rico and the Virgin Islands. The Pacific Council

would include the State of California. Oregon, Washington, and Idaho. The Alaska Council would include the States of Alaska, Oregon, and Washington. The Western Pacific Council would include the State of Hawaii and American Samoa and Guam.

It is to be noted that a number of the States would be represented on more than one Council. For example, the Commonwealth of Puerto Rico and the Virgin Islands would be represented on both the Southern Atlantic Council and the Gulf Council. From a geographical standpoint, they should be represented on the Southern Atlantic Council. However, from a fisheries standpoint, they should also be represented on the Gulf Council since this Council will be considering and working with fisheries common to the States in the Gulf and the Commonwealth of Puerto Rico and the Virgin Islands.

With respect to the States of California and Oregon, they would be included on both the Pacific and Alaska Councils. Geographically speaking, they are rightfully included in the Pacific Council. However, because of the migratory habits and movements of anadromous species, many of which spawn in their waters and migrate to areas off the coast of Alaska, and because of the participation of their fishermen in this fishery off the coasts of Alaska, it was also deemed appropriate that they should have representation on the Alaska Council.

With respect to Florida, naturally it should be represented on two Councils since it borders on both the Atlantic and Gulf Coasts.

(b) *Membership of Councils* [Sec. 302(b) ; 302(c)].—(1) *Number and appointment*.—Subsection (b) would provide for the make-up of each Council. In this regard, each Council would consist of the following:

(A) the Executive Director of the Marine Fisheries Commission for the geographical area concerned (there are in existence today the Atlantic, the Gulf, and the Pacific Marine Fisheries Commissions),

(B) one member appointed by, and serving at the pleasure of, the Governor or Chief Executive Officer of each State represented on the Council; in the case of the Alaska Council, the Governor of Alaska would be entitled to appoint three members; it was deemed appropriate that Alaska should be allowed to have three members appointed by the Governor in order that it might have a majority of such appointees since the States of California and Oregon would also be represented on that Council;

(C) the Regional Director of the National Marine Fisheries Service for the geographical area concerned;

(D) the Regional Director of the United States Fish and Wildlife Service for the geographical area concerned;

(E) six members appointed by the Secretary from a list prepared by the members specified in paragraph (A), (B), (C), and (D) of not less than 20 individuals having knowledge and experience in commercial or recreational fishing; such appointments would be required to reflect the degree to which commercial and recreational fishermen participate in the fisheries in the geographical area concerned and none of such appointees could be

officers or employees of the Federal Government or of any State Government;

In determining the membership of the Councils representing the commercial and recreational fishing interests, the Committee expects consideration to be given to, among others, the degree to which each participates in the region's fisheries, the number of fishermen, vessels, shore-support employees, and the economic contribution of the various fisheries to the different regions.

(F) two members appointed by the Secretary from a list prepared by the members specified in paragraph (A), (B), (C), and (D) of not less than six individuals who would represent the public interest; none of these appointees could be officers or employees of the Federal Government or of any State Government nor could they be any of the individuals referred to in subparagraph (E).

The Committee expects that most Governors will choose the state official with marine fisheries management responsibility and expertise for the subparagraph (B) appointments.

The Committee would expect, among others, conservationists, ecologists, and representatives of the scientific community to be considered for the subparagraph (F) appointments.

(2) *Continuation of membership* [Sec. 302(b)].—This paragraph would provide for continuity of membership in the case of an appointee who leaves the office he is holding at the time of being appointed at (1) an Executive Director of one of the Marine Fisheries Commissions, (2) a Regional Director of the National Marine Fisheries Service, or (3) as a Regional Director of the United States Fish and Wildlife Service. This paragraph would also cover those who are appointed to represent the commercial and recreational fishermen and the general public and subsequently become an officer or employee of the Federal Government or of a State Government. In such situations, the appointee would be allowed to continue as a member of such Council for a period of 90 days as the case may be.

(3) *Terms* [Sec. 302(b)].—This paragraph would provide that all members appointed to represent the general public and the commercial or recreational fisherman would be required to be appointed for a term of three years. Of the members first appointed to represent the commercial or recreational fishermen, two would be required to be appointed for a term of one year, two for a term of two years, and two for a term of three years. Of the members first appointed to represent the general public, one would be required to be appointed for a term of two years and one for a term of three years.

Individuals appointed to represent the commercial or recreational fishermen and the general public would be eligible for reappointment. Members appointed by the Governor or Chief Executive Officer of a State would serve at the pleasure of such Governor or Chief Executive Officer. The Executive Directors of the Marine Fisheries Commissions and the Regional Directors would serve so long as they held those offices.

(c) *Pay and Travel Expenses* [Sec. 302(d)].—(1) *Per diem rate*.—This paragraph would authorize members of each Council, other than Federal or State officers or employees, to receive \$100 for each day

(including traveltime) they are engaged in the business of the Council.

(2) *Travel expenses*.—This paragraph would authorize Council members to receive travel expenses, including per diem in lieu of subsistence, while away from their homes or regular places of business in the performance of Council business. This authorization is consistent with that of 5 U.S.C. 5703(b) which allows such expenses to persons employed intermittently in the Government.

(d) *Transaction of Business* [Sec. 302(e)].—This paragraph would establish the procedure to be followed when conducting Council business. In this regard, a majority of the members of any Council would constitute a quorum; a Chairman for each Council would be required to be elected from the members appointed to represent the interests of the commercial or recreational fishermen, the interest of the public and those appointed by the Governor or Chief Executive Officer to represent the interest of the State concerned; and each Council would be required to meet at the call of the Chairman or a majority of its members, but in any case, it would be required to meet at least one day during each calendar quarter.

(e) *Staff and Administration* [Sec. 302(f)].—The Secretary would be required to make available to each Council such staff, information, and personnel services as it may reasonably require to carry out its function. In this regard, the Committee anticipates the Councils will be extremely active in organizing and preparing, or assisting in preparing, fishery management plans. It expects the Secretary to make available to the Councils such staff and personnel services as may be necessary in order for the Councils to adequately carry out their functions under this Act.

To further assist in carrying out its functions, this subsection would require the Administrator of General Services, after consulting with the Secretary, to provide each Council on a reimbursable basis such administrative support services as the Council may request. In this regard, the Committee expects each Council to request such administrative support services as it may deem necessary in order for it to adequately carry out its functions under this act. The Committee expects the Secretary to make the necessary arrangements to see that the Administrator of General Services satisfies those requests.

(4) *Statement of organization*.—This paragraph would merely require each Council, after consultation with the Secretary, to publish and make available to the public a statement of the organization, procedure, and practices of the Council.

(f) *Advisory Panels* [Sec. 302(g)].—Each council would be authorized to establish advisory panels to assist it in carrying out its functions.

The Committee expects each Council to establish such advisory panels as it may deem necessary to assist it in carrying out its functions under this Act. The Committee expects industry planning panels and scientific and technical panels to be among those that would be established by the Councils.

(g) *Functions* [Sec. 302(h)].—(1) *In general*.—This subsection would require each Council to solicit and evaluate the comments and recommendations of all interested persons as to how best to carry out

the policy and purposes of this Act. This should be done on a continuing basis both informally and by means of public hearings whenever practicable. In fact, for the purpose of obtaining first hand information from the fishermen concerned, both commercial and recreational, regarding the needs of a particular fishery or the problems confronting such fishery, the Committee encourages the holding of public hearings in the geographical area concerned.

In addition, this subsection would require each Council to initiate the development of a management plan and propose such to the Secretary for adoption whenever the Council determines that any fishery in its region needs to be managed. In order to determine the needs of the fisheries and to properly conserve and protect them, the Committee urges each Council to conduct a thorough review of all fisheries within its geographical area.

Also, this subsection would require each Council to submit a report on its activities to the Secretary within 30 days after the close of each calendar quarter.

(2) *Statements of disagreement.*—This subsection would authorize the members of any Council voting against any measure receiving a favorable vote of the Council to submit to the Secretary a statement setting forth the reasons for their objection to such action. The Committee is hopeful that when there is disagreement that the members concerned will see that the Secretary is made aware of their views and recommendations.

SECTION 304 [SEC. 303]—PREPARATION OF FISHERY MANAGEMENT PLANS BY COUNCILS

(a) *Plans Prepared on Initiative of Council or at Request of Secretary.*—This subsection would authorize a fishery management plan, with respect to the species covered by this Act (coastal, anadromous, and Continental Shelf species), to be prepared by the appropriate Council concerned on its own initiative or at the request of the Secretary. Any fishery management plan prepared pursuant to this subsection would be required to be limited to species in the fisheries zone adjacent to the States represented on the Council. In any case in which the range of the species would include waters adjacent to the States represented on more than one Council, the Secretary would be required to designate which Council would prepare the fishery management plan. When such a plan would include waters adjacent to the States represented on more than one Council, the Committee would expect the Council designated to prepare the plan to consult with the other Council concerned and to seek the views and recommendations of the State representatives on such Council with respect to the plan.

Naturally, the Committee expects the Councils through hearings or any other appropriate means to solicit the advice and recommendations of interested individuals as to the need or desirability of preparing a management plan with respect to any particular fishery.

(b) *Scope of Management Plans.*—(i) *In general.*—This paragraph would require any management plan prepared by any Council to contain such conservation and other measures which the Council deems appropriate with respect to the management of the species or the

fishery concerned. In addition, the Council would be required to specify such conditions and limitations governing fishing by domestic or foreign vessels as the Council believes should be implemented to carry out such measures.

It is to be noted that with respect to foreign vessels, they would be prohibited from engaging in fishing within the territorial sea of the United States or for Continental Shelf species; however, research vessels owned or operated by an international organization, pursuant to a permit, would be allowed to fish in such waters or for such species.

(2) *Information with respect to relevant international obligations.*—This subsection would merely require the Secretary to provide to the Council, when such Council is preparing a fishery management plan, such information as may be appropriate with respect to international fisheries agreements and any other pertinent information relating to foreign fishing within the fisheries zone or seaward of the zone with respect to the fishery covered by the plan.

(3) *Specific plan requirements* [Sec. 303(a) ; 303(b)].—This paragraph would describe in detail the specific requirements that could be imposed on a fishery for which the Council has prepared a management plan.

(A) The plan could designate zones where, and designate periods when, fishing would be limited, not permitted at all, or permitted only by certain types of vessels and gear.

(B) The plan could establish a system under which access to the fishery would be limited both as to foreign and domestic vessels and both as to recreational and commercial fishermen. If the system provided for limited entry, then consideration would be required to be given by the Council to such things as the present participation in the fishery concerned, historical fishing practices, value of existing investments in vessels and gear, capability of existing vessels to engage in other fisheries and the history of compliance with any fisheries regulations imposed pursuant to this Act.

Also, it should be noted that the plan, with respect to any foreign vessel, should include such conditions and restrictions as may be necessary to comply with the policy and purposes set forth in section 2(b)(5).

(C) The plan could establish limitations on the catch of fish based on such things as area, species, size, number, weight, sex, incidental catch, total biomass, and other relevant factors necessary to carry out the policy and purposes of this Act.

(D) The plan could prohibit, limit, condition, or require the use of specified types of fishing gear, vessels, or other equipment or devices for such vessels which may be required to facilitate the enforcement of the provisions of this Act.

(E) The plan could specify those licenses, permits, or fees which should be required as a condition to engaging in any fishery regulated by this Act. In this regard, such licenses, permits, or fees could vary between domestic and foreign fishermen, between different categories of domestic fishermen (both recreational and commercial fishermen), and between different categories of foreign fishermen.

(F) The plan could require the submission to the Secretary of

pertinent statistics such as the type of gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing and number of hauls.

(G) The plan could require such other requirements as the Council deems appropriate.

(4) *Confidentiality of statistics* [Sec. 303(d)].—In order to obtain accurate information that would be useful to the Council and the public in general, and in order to protect the business of the person supplying such information, this paragraph would require the Secretary to treat all statistics supplied to him pursuant to paragraph (3)(F) as confidential. The Secretary could make public such information provided he did not directly, or indirectly, disclose the identity or business of the persons supplying such statistics.

(5) *Proposed regulations* [Sec. 303(c)].—This paragraph would authorize any Council to propose to the Secretary regulations as it deems necessary and appropriate to carry out any fishery management plan prepared by it. The Secretary would be required to take such regulations into account when developing proposed regulations to be promulgated pursuant to a plan that has been adopted by him.

The Committee would like to encourage to the maximum extent possible Council participation in the development of proposed regulations which involve a fishery with which it is concerned.

SECTION 305 [SEC. 304]—REVIEW, ADOPTION, OR OTHER ACTION BY SECRETARY REGARDING FISHERY MANAGEMENT PLANS

(a) *Action by Secretary After Receipt of Plan* [Sec. 304(a)].—This subsection would require the Secretary, within 60 days after receipt of a fishery management plan prepared by any Council, to review such plan in accordance with the requirements set forth in subsection (c). Once he has reviewed the plan, the Secretary would be required to notify in writing the Council submitting such plan of his approval, partial disapproval, or disapproval of the plan. In the case of partial disapproval or disapproval, he would be required to set forth his objections to such plan and the reasons therefor, and request the Council to amend the plan within 45 days.

(b) *Amended Plan* [Sec. 304(a)].—Within 30 days after receipt of an amended plan by the Secretary, the Secretary would be required to again review the plan and notify the Council in writing of his approval or disapproval and, in the case of disapproval, his reasons therefore.

(c) *Review of Plans* [Sec. 304(b)].—This subsection would set forth the matters to be considered when the Secretary reviews any management plan presented to him by any Council for approval. In carrying out the review, the Secretary would be required, among other things, to consider existing and projected population levels of the fish involved; to consider existing fishery management programs, statistics, and data relating to such fish; and to consult with the Secretary of State, if the plan will apply to foreign vessels, with the Coast Guard, if the plan will involve enforcement at sea, and with other Federal agencies, commercial and recreational fishery industries, and to the

extent practicable, any other persons who may have an interest in the fisheries involved in such plan.

In addition, the Secretary would be required to determine whether the plan is consistent with the national fisheries management standards set forth in section 302(c). Also, he would be required to examine and evaluate the management procedures proposed in such plan in order to determine if the regulation of the fishery concerned in the fisheries zone will be consistent on an interstate basis and consistent with any management procedures which an affected State may have put in effect in the territorial sea of the United States.

After the Secretary has completed his review, then he would be required to notify the Council, as provided in subsection (c), of his approval, partial disapproval, or disapproval of such plan.

(d) *Preparation of Plans by Secretary* [Sec. 304(c)].—This subsection would require the Secretary to prepare a fishery management plan if any Council fails to prepare such a plan within a reasonable time after he has requested a Council to do so. Should the Secretary disapprove of an amended plan that has been presented to him for adoption, then, if he deems such plan to be needed in order to conserve and protect the fishery concerned, he shall proceed to prepare a plan for such fishery. When preparing such plan, he would be required to comply with the same requirements set forth in section 304(b) that a Council is required to comply with when preparing a plan.

The Committee would like to make it clear that the final decision as to whether a plan is needed or whether a plan will enter into force and effect rests with the Secretary. However, the Committee expects that, in most cases, after a plan has been thoroughly considered by a Council and there appears to be justification for such a plan, the Secretary will adopt the plan and proceed to promulgate appropriate regulations. The Committee encourages origination of fishery management plans at the Council level.

SECTION 306—LICENSE FEES

(a) *Definition* [Secs. 204(b)(10); 304(d)].—This subsection would define the term "license fee" to mean any fee which is to be imposed on any person under any fishery management plan for the privilege of fishing.

It is to be noted that no license fee will be imposed unless the plan specifically provides for such a fee to be imposed. It is expected that any plan that calls for the imposition of such a fee will establish the amount of the fee to be charged as well as the persons to be charged, whether they be foreign or domestic fishermen or commercial or recreational fishermen.

Also, it should be noted that nothing in this Act would interfere with or affect the right of any State to impose license fees on its citizens for the privilege of fishing.

(b) *Collection by Secretary* [Secs. 204(b)(10); 303(b)(1); 304(d)].—This Subsection would merely require all license fees imposed by any fishery management plan to be collected by the Secretary.

(c) *Credit of License Fees to Separate Treasury Account* [Secs. 204(b)(10); 304(d)].—This subsection would establish in the Treasury of the United States a separate account into which all license fees collected by the Secretary would be credited.

Paragraph (2) of this subsection would require 10 percent of all license fees collected from foreign fishermen to be earmarked for reimbursement of certain license fees that may be imposed on United States fishermen for fishing in certain waters off the coast of foreign nations, as provided in subsection (d). [Sec. 204(b)(10)]

Paragraph (3) of this subsection would require all license fees deposited in the separate account, other than the 10 percent of the foreign fees referred to in paragraph (2), to be used to carry out fishery research and development programs as provided in subsection (e). [Secs. 204(b)(10); 304(d)]

(d) *Reimbursement of Certain Foreign Fees Imposed on United States Fishermen*.—(1) *Fees eligible for reimbursement* [Sec. 304(d)].—This paragraph would require the Secretary to reimburse any owner or operator of a United States fishing vessel for all or part of any license or permit fee (including any registration or equivalent fee) that may be imposed on such owner or operator by any foreign nation for the privilege of fishing in waters under the jurisdiction of that nation. However, two conditions would have to be met before such reimbursement could be made.

First, the United States would have to recognize the jurisdiction of that nation over fisheries conservation and management in such waters. In this regard, until July 1, 1976, the United States would recognize the fisheries jurisdiction of a nation out to 12 miles only off its shores; after July 1, 1976, the United States would recognize the fisheries jurisdiction of a nation out to 200 miles from its shores.

Second, United States vessels would have had to fish or carry out fisheries jurisdiction of a nation out to 200 miles off its shores.

(2) *Limitations on reimbursement* [Sec. 304(d)].—This paragraph would limit the amount such owners or operators of United States fishing vessels could be reimbursed. It would be an amount by which the fee imposed by the foreign nation exceeds the average license fee imposed under all fishery management plans implemented under this Act at the time such foreign fee was imposed. That is to say, the United States vessel owner or operator would not be reimbursed for the fee he would have been required to pay had his vessel been used in fishing in waters covered by a fishery management plan off the shores of the United States.

(3) *Reimbursement funding* [Sec. 304(d)].—This paragraph would require any reimbursement made by the Secretary to United States fishing vessel owners or operators to be made first out of the 10 percent fees collected from foreign fishermen. If such fees should prove to be insufficient, then the remainder would be paid out of appropriated funds. In this regard, there would be authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection.

In view of the erratic nature in which seizures have occurred in the past, it was not possible to estimate the cost to the Federal Govern-

ment of implementing this section of the act.

(e) *Fishery Research and Development* [Sec. 304(e)].—This subsection would require all license fees collected by the Secretary, excluding the 10 percent of the fees collected from foreign fishermen, to be used by the Secretary to carry out stock assessment and such other research and development which the Secretary deems appropriate with respect to the fishery resources within the geographic area of the Council from which the fees were derived. It is to be noted that fees could be collected only for managed species, the theory being that any fees collected should be used for the conservation, protection, and enhancement of such species. Therefore, the Committee would like to make it clear that any programs carried out by the Secretary pursuant to this subsection are expected to be in addition to, not in lieu of, any programs that would ordinarily be carried out by the Secretary.

SECTION 307 [SEC. 305]—IMPLEMENTATION OF FISHERY MANAGEMENT

(a) *In General* [Sec. 305(a)].—This subsection would set forth the procedure to be followed by the Secretary after he has approved of any fishery management plan prepared by any Council or prepared by him. As soon as practicable after such approval, the Secretary would be required to publish in the Federal Register the plan and all regulations which he proposes to promulgate in order to implement the plan. Interested persons would be afforded a period of not less than 45 days after such publication within which to submit written data, views, or comments on the proposed regulations. After the expiration of the 45-day period, the Secretary could, after consideration of all relevant matters presented, proceed to promulgate the regulations with such modifications as he may deem appropriate, except as provided in subsection (b).

(b) *Objections to Proposed Regulations* [Sec. 305(a)(2)].—This subsection would authorize, before the close of the 45-day period, any citizen (as defined in this subsection) who, or any State which, may be adversely affected by the plan or the proposed regulations to file with the Secretary written objections to the plan or proposed regulations stating the grounds therefore and request a hearing on such obligations. Should the Secretary determine that the citizen filing objections would be adversely affected and such citizen has requested a hearing or if a State requests a hearing (whether it would be adversely affected by such regulations or not), then the Secretary would be required to schedule hearings as soon as practicable on such regulations, as provided under subsection (c), before proceeding to promulgate the regulations.

(c) *Hearings After Objections* [Sec. 305(b)].—This subsection would set forth the procedure to be followed should the Secretary decide to hold public hearings on the proposed regulations. In this regard, as soon as practicable after the close of the 45-day period, the Secretary would be required to publish in the Federal Register a notice specifying the time and place at which a public hearing would be held and the appropriate provisions of the regulations to which objections have been filed. The hearing would be held pursuant to section 553 of the Administrative Procedure Act, and any interested citizen or State could

be heard. After the hearing, the Secretary would be required to act upon such objections, make his determinations public, and promulgate the regulations with such modifications, if any, as he may deem appropriate.

With respect to any hearing to be held pursuant to this subsection, the Committee would expect such hearing to be held in a convenient and suitable place in geographical area of the Council.

(d) *Revision of Regulations* [Sec. 305(e)].—This subsection would authorize the Secretary to revise any regulation promulgated pursuant to this section, but in doing so, he would be required to follow the same procedures prescribed in subsections (a) through (c) for the promulgation of original regulations pursuant to a management plan.

(e) *Emergency Regulations* [Sec. 305(e)].—This subsection would authorize the Secretary, in emergency situations to waive the requirements for notice and public hearings required by subsections (a), (b), and (c) with respect to any regulation implementing a management plan. However, before doing so, he would be required to have the consent of the Council concerned, by the affirmative vote of not less than two-thirds of the membership of such Council, and he must have determined that due to an emergency situation arising with respect to the fishery concerned that notice and hearing on such regulations would be impractical, unnecessary, or contrary to the public interest. If any written objection to such procedure is received by the Secretary within 30 days of the effective date of the emergency regulations, then within 40 days of such effective date the Secretary would be required to initiate the regular procedures set forth in subsections (a), (b), and (c).

Any emergency regulation would remain in effect for one year unless terminated sooner by the Secretary. [Sec. 305(e) (2) (B) ; 305 (e) (2) (C)]

SECTION 308 [SEC. 305 (e)]—TEMPORARY EMERGENCY FISHERY MANAGEMENT PLANS PREPARED AND IMPLEMENTED BY THE SECRETARY WITH RESPECT TO CERTAIN FISHERIES

(a) *In General*.—This subsection would require the Secretary, within 90 days after the date of enactment of this Act, on his own initiative or at the request of any State to prepare a management plan and promulgate such regulations as may be necessary to implement such plan with respect to any coastal species or Continental Shelf species which he believes to be as of the date of the enactment of this Act, depleted, in imminent danger of becoming depleted, or under intensive use but unregulated because of the absence of management authorization. Before preparing such a plan, the Secretary would be required to consult with appropriate States and fishing industry representatives with respect to the fishery involved. The plan and implementing regulations would apply only within those waters which comprise the 9-mile contiguous fisheries zone, not within the territorial waters of the United States. Also, the plan and the implementing regulations would be deemed to be temporary emergency regulations.

The Committee has determined that there are ten species of fish

that are considered to be depleted (see list included in definition section of this report under the remarks concerning the term "depleted"). The Committee is aware that there are a number of other species in imminent danger of becoming depleted. However, with respect to the category of fish that are "under intensive use but unregulated because of the absence of management authority", the Committee is aware that this list could be rather large. It is the species included in this latter category on which the Committee thinks cautionary action should be taken, particularly in view of the fact that the Councils will not have been organized by the time this action is taken and the fact that the fishermen concerned may feel that such precipitous action under the circumstances would not be justified. Therefore, the Committee expects the Secretary in carrying out his functions under this section to concentrate on those species that pose the most immediate need for regulation.

(b) *Interim Report*.—This subsection would merely require the Secretary, within 45 days after the date of enactment of this Act, to submit to the Congress a report which sets forth those fisheries which he plans to take action on pursuant to subsection (a).

(c) *Plan Requirements*.—This subsection would require the Secretary, in preparing any plan required by subsection (a), to include such requirements set forth in section 304(b)(3)—as he would be authorized to include when preparing any regular management plan—as he deems necessary, however, he could not include in such plan any requirement that would impose limited entry or license fees on United States fishing vessels.

(d) *Treatment of Regulations*.—This subsection would provide that any regulation promulgated by the Secretary to implement a plan under this section would be deemed to be an emergency regulation as if promulgated under section 307(e), which allows regulations to be promulgated without following the Administrative Procedure Act with respect to the requirements for notice and public hearing. However, if written objections to such procedures are subsequently received by the Secretary, then he would be required to follow the procedure set forth in section 307(e), which would trigger the requirements of section 553 of the Administrative Procedure Act.

The regulations would remain in effect for 180 days unless terminated sooner by the Secretary. [Sec. 305(e)(2)(B); 305(a)(2)(C)]

SECTION 309 [SEC. 306]—STATE JURISDICTION

(a) *In General*.—This subsection would make it clear that nothing in this Act would extend or diminish the jurisdiction of any State seaward of the coastline of the United States except as provided in subsection (b), which would authorize the Federal Government to regulate certain stocks of fish in the territorial sea of the United States in certain instances.

(b) *Assertion of Federal Jurisdiction in Certain Instances*.—(1) *Findings*.—In this paragraph, the Congress would find that anadromous species and certain coastal and Continental Shelf species move during their life cycle within waters over which more than one State has jurisdiction and move from such waters to the high seas which are

not within the jurisdiction of any State. The Congress would further find that it is not the purpose of this Act to affect State jurisdiction over fish principally found within waters under its jurisdiction but there may be instances where Federal regulation of such species within such waters may be necessary in order to insure the effectiveness of a management plan.

(2) *Findings and action by Secretary* [Sec. 306(b)(1)].—Under this paragraph, if the Secretary finds that any fishery management plan would apply to any of the species covered by this Act which are to any extent or at any time under the jurisdiction of any State and such State has taken, or failed to take, any action the result of which would substantially and adversely affect the carrying out of the plan, the Secretary would be required to declare that fishery within such State's waters to be subject to regulation by him pursuant to the plan and he would be required to assume responsibility for such regulation.

It is to be noted that in making his finding, the Secretary would be required to follow the requirements set forth in section 554 of the Administrative Procedure Act, which have to do with notice and opportunity for an agency hearing on the record.

Also, this paragraph would make it clear that the internal waters of a State, from the coastline inland, would in no way be affected by this Act.

Since the Federal Government can assert jurisdiction in the waters of any State only in those limited instances when the State action, or the State's failure to take action, will substantially as well as adversely affect the carrying out of the plan, the Committee is of the opinion that such preemption will be the unusual, rather than the usual, practice. The Committee is most hopeful that appropriate action will be taken by the States to cooperate with the Secretary so that Federal assertion of jurisdiction in such instances will not be necessary.

(c) *Resumption of State Regulation* [Sec. 306(b)(2)].—Should the Secretary assert Federal jurisdiction and assume responsibility for the regulation of any fishery within State waters and should the State concerned thereafter apply to the Secretary for reinstatement of that State's regulation of such fishery, this paragraph would authorize the Secretary to declare such fishery to be subject to State regulation within that State's waters pursuant to the management plan, provided the Secretary finds that the reasons for which his regulation of the fishery was assumed no longer exist. In making such finding, the Secretary would be required to follow the requirements of section 554 of the Administrative Procedure Act.

SECTION 310 [SEC. 307]—PROHIBITED ACTS

This section would describe the acts prohibited under this Act. In this regard, it is unlawful for any person (1) to violate any provision of this Act or any regulation promulgated to carry out any fishery management plan; (2) to violate any condition or restriction applicable to a permit, if fishing pursuant to a permit issued under section 201(g); (3) to refuse to permit any authorized representative of the Secretary, or the Secretary of the Department in which the Coast Guard is operating, to board any fishing vessel under the control of

such person if the purpose of the boarding is to carry out any inspection relating to the enforcement of this Act, any regulation issued pursuant to a fishery management plan, or any condition or restriction of a permit; (4) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized representative of the Secretary, or of the Secretary of the Department in which the Coast Guard is operating, who is engaged in any reasonable inspection of a kind referred to in paragraph (3); or (5) to ship, transport, purchase, offer for sale, import, export, or have in custody, possession, or control any fish taken in violation of this Act, any regulation referred to in paragraph (1), or any condition or restriction referred to in paragraph (2).

It should be noted that any person committing any act prohibited by paragraph (1), (2), or (5) would be subject to a civil penalty and any person committing any act prohibited by paragraph (3) and (4) would be subject to a criminal penalty.

SECTION 311 [SEC. 308]—CIVIL PENALTIES

(a) *Assessment of Penalty* [Sec. 308(a)].—This subsection would empower the Secretary of Commerce to level civil penalties against persons who are found, after notice and opportunity for a hearing in accordance with section 554 of the Administrative Procedure Act, to have committed an act prohibited by paragraph (1), (2), or (5) of section 310. The amount of the civil penalty could not exceed \$25,000 for each violation. Each day of a continuing violation would constitute a separate offense. The actual amount of each civil penalty would be at the discretion of the Secretary after he has taken in consideration the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(b) *Review of Civil Penalty* [Sec. 308(b)].—If a civil penalty is assessed against anyone, this subsection would authorize that person to seek review in the Court of Appeals of the United States by filing a notice of appeal within 30 days of the date of such order. If the Secretary's decision is found to be unsupported by substantial evidence, as provided in 5 U.S.C. 706(e), the decision would be required to be set aside.

(c) *Action Upon Failure To Pay Assessment* [Sec. 308(c)].—If any penalized person fails to pay a finally adjudicated civil penalty, this subsection would require the Secretary to refer the matter to the Attorney General who, in turn, would be required to recover the amount assessed in any appropriate district court. In such action, the validity and appropriateness of the final order imposing the civil penalty would not be reviewable by the district court.

(d) *Compromise or Other Action by Secretary* [Sec. 308(d)].—This subsection would authorize the Secretary to compromise, modify, or remit any civil penalty which may be or has been imposed.

SECTION 312 [SEC. 309]—CRIMINAL PENALTIES

This section would authorize the imposition of criminal penalties against persons committing any act prohibited by paragraph (3) or

(4) of section 310. Conviction could result in a maximum fine of \$50,000. However, if any person uses a deadly or dangerous weapon in the commission of any act prohibited by such paragraphs, then such person would be subject to fine of not more than \$100,000, or imprisonment of not more than ten years, or both.

It should be noted that foreign fishing in the territorial sea, the fisheries zone, or for a managed species beyond the zone without a permit would subject violators to the penalties provided by the Bartlett Act. Foreign fishing in violation of conditions or restrictions applicable to a permit authorizing fishing within the zone or for managed species beyond the zone would subject violators to the penalties provided by this Act.

SECTION 313 [SEC. 310]—FORFEITURE

(a) *Application for Forfeiture*.—This subsection would authorize the Secretary or the Attorney General to seek forfeiture through any district court of any fishing vessel or its catch, cargo, or fishing gear or the monetary value thereof, used or intended for, or acquired in the commission by any person of any act prohibited by section 310. In any such judicial proceeding, the court at its discretion could enter restraining orders or prohibitions or take such other actions as are in the interest of justice, including the acceptance of satisfactory performance bonds in connection with any property subject to forfeiture.

(b) *Seizure*.—If a judgment is entered under this section for the United States, the Attorney General is authorized to seize all property or other interest declared forfeited upon such terms and conditions as are in the interest of justice. All provisions of law relating to the disposition of forfeited property, the proceeds from the sale of such property, the remission or mitigation of forfeitures for violation of the customs laws, and the compromise of claims and the award of compensation to informants with respect to forfeitures would apply to forfeitures incurred, or alleged to have been incurred, insofar as applicable and not inconsistent with the provisions of this section. Duties imposed upon the collector of customs or any other person with respect to seizure, forfeiture, or disposition of property under the customs laws would be performed with respect to property used, intended for use, or acquired by activity in violation of any act prohibited by section 310 by such officers or other persons as may be designated for that purpose by the Secretary.

SECTION 314 [SEC. 311]—ENFORCEMENT

(c) *In General* [Sec. 311(a)].—This subsection would direct the Secretary and the Secretary of the Department in which the Coast Guard is operating to carry out the enforcement of the provisions of this Act, any regulation promulgated to carry out any fishery management plan, and any condition or restriction attached to any permit issued pursuant to section 201(g) [sec. 204(b)(11)]. In carrying out such enforcement, the Secretary and the Secretary of the Department in which the Coast Guard is operating would be authorized to utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or of any State agency. In

regard to any State agency, such personnel, services, and facilities could be used for purposes of enforcement with respect to domestic vessels wherever such domestic vessels may be found. With respect to foreign vessels, such personnel and services could be used only when such vessels are found within the fisheries conservation and management zone.

(b) *Authority* [Sec. 311(b)].— Enforcement powers provided by this subsection would include the authority, with or without a warrant, for authorized officers to board and inspect any domestic fishing vessel or any other vessel subject to the jurisdiction of the United States, and its catch and gear, upon the waters of the fisheries conservation and management zone or upon all high seas seaward of such zone. Such enforcement powers would also include the authority for any such officer, with or without a warrant or other process, to arrest any person committing in his presence or view a violation of section 310 (3) or (4), those actions which are subject to criminal penalties. In addition to authorizing such officers to execute any warrant or other process issued by any officer or court of competent jurisdiction, this subsection would authorize such officers to seize any fishing vessel and fishing gear (whether such gear is in the water or on board such vessel) used in, as well as any fishing vessel on which occurs, the violation of any provision of this Act, any regulation promulgated pursuant to a plan, or any condition or restriction applicable to a permit issued under section 201. Also, such officers would be authorized to seize any fish, wherever found, taken in violation of any provision of this Act, any regulation or condition or restriction referred to in paragraph (4).

Any fishing vessel, fishing gear, or fish seized pursuant to paragraph (4) or (5) could be disposed of pursuant to an order of a court of competent jurisdiction, or, if perishable, in such manner as may be prescribed by regulation by the Secretary.

(c) *State Officers* [Sec. 311(b)].— This subsection would make it clear that any officer of any State, if designated pursuant to subsection (a) to function as a Federal law enforcement agent, would not be considered to be a Federal employee of the United States for the purposes of any law administered by the Civil Service Commission.

(d) *Jurisdiction of Courts* [Sec. 311(d)].— This subsection would give the district courts of the United States exclusive jurisdiction over all cases or controversies arising under this Act, any regulation, or any permit issued pursuant to this Act.

(e) *Procedure*.— This subsection would establish the procedure to be followed when a warrant or other process in rem is issued in any cause under this section. In such situations, the Marshal or other officer would be required to stay the execution of such process, or discharge any fish seized if the process has been levied, in receiving a bond or other surety satisfactory to the court conditioned to deliver the fish seized or pay its equivalent value in money or to otherwise answer the decree of the court.

TITLE IV—AMENDMENTS TO OTHER LAWS RELATING TO THE FISHERIES AND MISCELLANEOUS PROVISIONS

SECTION 401 [SEC. 403]—FISHERMEN'S PROTECTIVE ACT AMENDMENTS

(a) *Seizure Provision* [Sec. 403(a)].— Under present law (section 2 of the Fishermen's Protective Act), where a vessel of the United States

is seized by a foreign government on the basis of rights or claims in territorial waters or the high seas which are not recognized by the United States and there is no dispute of the material facts with respect to the location or activity of such vessel at the time of such seizure, then the Secretary of State would be required as soon as practicable to take such action as he deems appropriate to attend to the welfare of such vessel and its crew while it is held by such country, to secure the release of such vessel and crew, and to immediately ascertain the amount of any fine, fee, or other direct charge which may be reimbursable under section 3 of the Fishermen's Protective Act.

Section 3 of such Act requires the Secretary of the Treasury, in any case where a vessel of the United States is seized by a foreign country under the conditions set forth in section 2, to reimburse the owners of the vessel for the amount of any fine, license fee, registration fee, or any other direct charge which must be paid in order to secure the prompt release of the vessel and crew.

Subsection (a) of this section would amend section 2 of the Fishermen's Protective Act by retaining existing law and by adding a new provision that would allow for the reimbursement of any fine, license fee, registration fee, or any other direct charge paid under the following circumstances: where a vessel of the United States is seized by a foreign country while such vessel is engaged in fishing in any area of the high seas (and the rights or claims of fisheries conservation and management jurisdiction in such area by such country are recognized by the United States) for a specific stock of fish (including, but not limited to, tuna and any other highly migratory species of fish), and vessels of the United States have previously fished in such area for such stock.

In essence, the new language added by this subsection to the Act is intended to extend the protection of the Fishermen's Protective Act to situations where United States vessels are seized for engaging in fishing within 200 miles of the shores of a nation for a specific stock of fish in areas where such vessels have previously fished for such stocks. For example, after July 1, 1976, should United States vessels be seized for engaging in the taking of tuna within 200 miles of Ecuador or Peru, then the owners of such vessels would be entitled to receive reimbursement for any charges, regardless of how characterized or calculated, that are required to be paid in order to secure the prompt release of the vessel and crew.

(b) *Reimbursement Provision*. [Sec. 403(a)(2)(D)(iii)].—This subsection would amend section 3(a) of the Fishermen's Protective Act to clarify what is meant by the term "other direct charges" where it appears in the Act. This term would be defined to mean any levy, however characterized or computed (including, but not limited to, computation based on the value of a vessel or the value of fish or other property on board a vessel), which is imposed in addition to any fine, license fee, or registration fee.

This amendment to section 3(a) of the Act would apply with respect to seizures occurring on or after December 31, 1974. [Sec. 403(b)]

The need for this amendment arises because of the seizure in early 1975 of a number of United States tuna vessels by the Government of Ecuador. When Ecuador seized the vessels, three of such vessels had

their catch confiscated and, in lieu of confiscation, the Ecuadorian authorities required the vessel owners to pay the monetary value of the fish on board such vessels to the Ecuadorian Government. The payments made by the vessel owners were as follows: *Neptune* \$72,000; *A.K. Strom* \$120,968; and *Jaqualine A* \$34,000; for a total of \$226,968.

Had the fish been actually confiscated, the vessel owners would have been reimbursed for the fair market value of such fish under the voluntary insurance program provided by section 7 of the Fishermen's Protective Act.

Since the fish were not actually confiscated and the monetary value of such fish was required to be paid in lieu of confiscation, the Department of Commerce determined that no reimbursement would lie under section 7 of the Act.

As previously pointed out, section 3 of the Act provides for reimbursement of any fine, license fee, registration fee, or any other direct charge required to be paid in order for a vessel owner to obtain release of his vessel illegally seized. In the case of these three vessels, the State Department interpreted the Act narrowly, and determined that the clause "any other direct charge" would not include the monies paid for the monetary value of the fish. Consequently, these vessel owners are out \$226,968.

The amendment would have the effect of making these claims, as well as any future similar claims, reimbursable under section 3 of the Act.

Also, the Committee would like to make it clear that whenever there is a seizure of a United States vessel covered by this Act, the Act should be interpreted in such a way as to make the vessel owners whole. In general, it is the intent of the Committee for any vessel owner to be reimbursed for all losses incurred (during the seizure and detention period) either under section 3 or section 7 of the Act (if the vessel owner is participating in the voluntary insurance program). The only exception to full reimbursement would be that loss relating to loss of fishing time. Section 7(a)(3) of the Act allows the owner and crew of such vessel to be reimbursed for only 50 percent of the loss of fishing time while the vessel is being detained.

SECTION 402 [SEC. 402(b)]—AMENDMENTS TO THE ACT OF MAY 20, 1964

(a) *Amendments.*—Under the Act of May 20, 1964 (better known as the Bartlett Act), section 1 thereof, makes it unlawful for any vessel, except a vessel of the United States, or for the master or other person in charge of such a vessel, to engage in the fisheries within the territorial waters of the United States, or within waters (nine-mile contiguous fisheries zone) in which the United States has the same rights in respect to fisheries as it has in its territorial waters or to engage in the taking of any Continental Shelf fishery resource which appertains to the United States. In the latter case, Public Law 93-242 declares the following to be creatures of the Continental Shelf: 15 species of crustacea (including American lobster, tanner crab, king crab, etc.); 6 species of mollusks, (including red abalone, surf clam, etc.); and 4 species of sponges (including yellow sponge, grass sponge, etc.).

In addition, section 1 of the Bartlett Act authorizes the following exceptions to the prohibition against foreign fishing: (1) those provided by an international agreement to which the U.S. is a party; and (2) those provided in the Act. With respect to the latter, 60 days after written notice to the President of the Senate and the Speaker of the House of intent to do so, the Secretary of the Treasury could authorize a foreign fishing vessel to fish for designated species within the territorial waters, or the contiguous fisheries zone, or for resources of the Continental Shelf which appertain to the U.S. However, before this permission could be granted, the Secretary of State and the Secretary of Commerce would have to certify that such permission would be in the national interest, the coastal State affected would have to give its concurrence, and the Secretary of Commerce would have to find that the country of the foreign vessel extends substantially the same fishing privileges for a fishery to U.S. vessels. Also, the Secretary of State, with the concurrence or the Secretaries of the Treasury and Commerce, could permit a foreign vessel, owned or operated by an international organization, of which the United States is a member, to engage in fishery research within the territorial waters or contiguous fisheries zone, or for Continental Shelf fisheries resources and to land its catch at a U.S. port if determined to be in the national interest to do so.

Section 2 of the Bartlett Act makes persons violating the provisions of the Act subject to a fine of \$100,000 or imprisonment for one year, or both. In addition, the vessel involved in a violation, including its tackle, apparel, furniture, appurtenances, cargo, and stores are subject to forfeiture and all fish taken or retained in violation of the Act or the monetary value thereof are forfeited. For the purposes of this Act, there is a rebuttable presumption that all fish found aboard a vessel seized in connection with a violation were taken or retained in violation of the Act.

Subsection (a) of this section, in rewriting section 1 of the Bartlett Act, would retain the provisions of that section which make it unlawful for a foreign vessel, or the master or other person in charge of such a vessel, to engage in fishing within the territorial waters of the United States and for any Continental Shelf fishery resource. With respect to the prohibition relating to the contiguous fisheries zone, this subsection would modify the prohibition in two respects. First, the zone would be extended from 9 to 197 miles as provided by title I of this Act [Sec. 101] (which comes into force and effect July 1, 1976). [Sec. 104] Second, fishing in such zone would be allowed only pursuant to a permit issued under section 201 of this Act, which, in essence, is tantamount to an international fishery agreement authorized under section 1 of the Bartlett Act as presently written.

In addition, section 1 of the Bartlett Act, as rewritten by this subsection, would add a new prohibition. It would make it unlawful for any foreign vessel or for the master or other person in charge of such a vessel to engage in fishing for any anadromous species beyond such fisheries conservation and management zone (200 miles) for which a management plan has been implemented under title III of this Act [Sec. 102(a)], unless such fishing is authorized under a

permit issued [Sec. 204] pursuant to section 201 [Sec. 201] of this Act.

In addition, this subsection would rewrite section 1 of the Bartlett Act so as to eliminate all of the exceptions to the prohibition against foreign fishing in such waters except the one relating to vessels owned or operated by an international organization. In this regard, the exception was broadened so as to allow fisheries research in the newly defined expanded fisheries conservation and management zone provided the Secretary determined that such research would be in the national interest.

Also, this subsection would make a technical amendment to section 5(c) of the Bartlett Act by substituting the word "fishing" for the word "fisheries".

(b) *Effective Date*.—This subsection would make the amendments provided by subsection (a) effective July 1, 1976.

SECTION 403 [SEC. 405]—ATLANTIC TUNAS CONVENTION ACT AMENDMENT

Under the definition section of the Atlantic Tunas Convention Act, the term "fisheries zone" is defined to mean the entire zone established by the United States under the Act of October 14, 1966 (which means the nine-mile contiguous fisheries zone).

Section 105 [Sec. 402] of this Act would repeal the Act of October 14, 1966, effective July 1, 1976. Therefore, it is necessary to amend the definition of "fisheries zone" as defined in the Atlantic Tunas Convention Act to appropriately reflect the fisheries conservation and management zone that would be established by this Act. Consequently, section 2(4) of that Act was amended accordingly [Sec. 405(a)], the effective date of such amendment being July 1, 1976. [Sec. 405(b)]

SECTION 404 [SEC. 404]—MARINE MAMMAL PROTECTION ACT AMENDMENT

Under the definition section of the Marine Mammal Protection Act, the term "waters under the jurisdiction of the United States" is defined to mean: (a) the territorial seas of the United States; and (b) the fisheries zone established pursuant to the Act of October 14, 1966 (which means the nine-mile contiguous fisheries zone).

Section 105 [Sec. 402] of this Act would repeal the Act of October 14, 1966, effective July 1, 1976. Therefore, it is necessary to amend the definition of "waters under the jurisdiction of the United States", as defined in the Marine Mammal Protection Act, in order to appropriately reflect the fisheries conservation and management zone that would be established by this Act. Consequently, section 3(15)(B) of that Act was amended accordingly. [Sec. 404(a)] The amendment would take effect July 1, 1976. [Sec. 404(b)]

SECTION 405 [SEC. 406]—AUTHORIZATION OF APPROPRIATIONS

This section would authorize to be appropriated such sums as may be necessary to carry out the purposes of this Act, other than section 306(d)(3). Section 306(d)(3) contains its own authorization for appropriations.

Pursuant to Clause 7(a)(1) of Rule XIII, of the Rules of the

House of Representatives, the Departments of Commerce and Transportation, the Agencies primarily charged with the implementation of this Act, were requested to assist the Committee in estimating the cost of carrying out this Act for the current Fiscal Year and for each of the next five succeeding fiscal years.

No official estimate was received from the Department of Commerce. It was estimated that there would be no additional cost to the Department of State in carrying out its functions under the Act since such functions would be administrative in nature. The estimate of the Department of Transportation, together with accompanying letter, follow:

DEPARTMENT OF TRANSPORTATION,
UNITED STATES COAST GUARD,
Washington, D.C., August 19, 1975.

HON. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: This is in response to your request of 14 August 1975 concerning an estimate of Coast Guard expenditures connected with the implementation of H.R. 200, (Marine Fisheries Conservation Act of 1975). We have developed what we consider to be a reasonable and effective plan of action.

The main thrust of our planned approach would provide various levels of coverage of known active fishing areas in direct proportion to the experienced intensity of foreign fishing activity, i.e. our enforcement efforts would concentrate on those areas where and when the fishing will most likely be done. In addition, periodic patrols to the limit of jurisdiction will be made to detect changes in fishing patterns and to make our presence known throughout the area. A mix of long and medium range aircraft would patrol the areas to monitor foreign fishing activity and provide fishing vessel locations to cutters on fisheries patrols. A mix of high and medium endurance cutters with helicopters embarked whenever possible would be used to monitor foreign fishing activity through examination from the helicopter and the cutter itself as well as through any boarding of the foreign vessels that may be permitted. The cutters would also make any seizures that may be permitted.

To acquire and operate these facilities will require a very substantial increase in our operating expense and acquisition, construction and improvement appropriations. I have enclosed an estimate of these costs that has been previously provided to a number of individual members of both houses on their request. I must caution that all of these costs are expressed in FY 1975 dollars. We are in the process of refining these estimates and updating them to reflect FY 1976 costs and we already know that increases in all categories will be needed to carry out the plan previously described. Major increases in reactivation and new procurement items are now certain.

In addition, we also have been reevaluating how best to respond to this new requirement in the period immediately following an extension of jurisdiction. This will be a particularly critical and difficult time in terms of the availability of facilities. The five-year financial

plan contained in the enclosure is based on reactivation of six over-aged high endurance cutters, which have been held in reserve for this purpose, together with activation of several deactivated helicopters. It is becoming evident that reactivation of these old vessels, even as a stop-gap measure, is increasingly less attractive with the passage of time. These ships cannot carry helicopters, and, because of their age, machinery maintainability is a serious question. If the extension of jurisdiction does not occur in the next year, I believe reactivation of these vessels may not be in the best interest of the public. Similarly, the costs of recommissioning the deactivated helicopters and the leadtimes which are developing in the ordering of spare parts for them now suggests that acquisition of new aircraft may provide a more timely, complete, and economical response to extension requirements. We are currently looking into alternative interim methods of meeting these initial needs.

The results of the repricing of the five-year plan and revalidation of interim implementation plans is expected in the near future. When completed, we will provide the data to you.

O. W. SILVER,
Admiral, U.S. Coast Guard,
Commandant.

Attachment.

5-YR PROJECTION, PLANNED APPROACH—200 MI JURISDICTION RESOURCE REQUIREMENTS

[In thousands of dollars]

	Fiscal year—					
	1976	1977	1978	1979	1980	1981
1. Procurement/Reactivation planned facilities:						
Aircraft:						
(a) HH52's-reactivate (10).....	0	1,000	0	0	0	0
(b) LRS-Procure (6) ¹	0	33,114	0	0	0	0
(c) MRS-Procure (4).....	0	0	11,240	0	0	0
Ships:						
(a) HEC's-Reactivate (6).....	0	6,800	0	0	0	0
(b) HEC's-Build (10) ²	0	0	0	110,000	110,000	0
Total.....	0	40,914	11,240	110,000	110,000	0
2. Start-up costs.....	0	3,520	3,850	1,650	1,980	0
3. Operating costs:						
Aircraft:						
(a) HH52's (10).....	0	1,605	1,605	0	0	0
(b) LRS (6) augmented.....	0	2,304	3,457	3,457	4,609	0
(c) MRS (4).....	0	0	1,200	1,200	0	0
Ships:						
(a) Reactivate HEC's (6).....	0	6,000	6,000	0	0	0
(b) New HEC's (10) ³	0	0	0	0	0	0
Total, direct operating costs.....	0	9,909	12,262	4,657	4,609	0
Indirect support costs.....	0	4,955	6,131	2,328	2,305	0
Total annual increase.....	0	14,864	18,393	6,985	6,914	0
Total annual operating costs.....	0	14,864	33,257	40,242	47,156	47,156

¹ Procure 6 LRS A/C; operate with augmented crew.

² Replace 5 each: aged 255 ft and 327 ft cutters.

³ Cost of operating new cutters offset by costs of decommissioned cutters.

Note: If jurisdiction is extended during fiscal year 1976, a supplemental budget request will be submitted for those items appearing under fiscal year 1977. If appropriated, all projections except for WHFC replacements are for 1 yr earlier.

Although the Department of Commerce did not submit an official estimate as to the cost of carrying out its functions under this Act, informal discussions were held between the staffs of the Committee and the Department and such discussions proved to be most helpful in arriving at estimated costs.

It appears that a number of studies involving fisheries management under extended jurisdiction, as provided by this Act, have been made recently and have included various estimates of the costs that would be involved. However, based on these studies, it can be safely assumed, at this time—August, 1975, that it is not possible to develop accurate projected costs for the next five fiscal years. Therefore, any figure used must be considered as a preliminary estimate subject to revision as events and knowledge related to this issue become more clearly focused.

With the understanding that solid budget projections are not available, it can be stated that at least five different elements must be taken into account when computing the probable cost of implementing this Act by the Department of Commerce. These five elements are: (1) salary and expenses associated with the seven Regional Councils; (2) physical housekeeping expenses; (3) nonreimbursable staff support to the Councils and interdisciplinary planning activities provided by the Department; (4) expanded enforcement and surveillance capability of the Department (over and aboard the activities of the Coast Guard and Navy); and (5) expanded fishery surveys and economic and statistical data collection and analysis activities provided by the Department.

These five elements could be grouped into two functional categories. The first category would involve the fisheries management planning activities and operations of the seven Regional Councils (elements one and two). The second category would involve the planning, enforcement, research, and statistics activities of the Department (elements three, four, and five).

A conservative estimate for the first year costs of the activities of the Councils (the first functional category mentioned above) would be approximately \$1 million. A similarly conservative estimate for the fisheries management activities of the Department (the second functional category) for the first year would be approximately \$20 million. The total first year cost of the legislation, for Fiscal Year 1977, therefore, would be approximately \$21 million over present levels of funding. To implement this Act for the remainder of Fiscal Year 1976 and the transition period (July 1, 1976, to September 30, 1976) would be considerably less for a number of reasons particularly in view of the fact that less than a full year would be involved.

Annual costs beyond the first year could be subject to considerable changes from the first year costs. In fact, in one study carried out by the Department staff, it was estimated that an annual increase of about \$40 million over present operation needs would be required.

For more information on the cost of implementing this Act, see the table included under the "Cost of the Legislation" section hereinafter contained in this report.

SECTION 406 [SECTION NOT INCORPORATED INTO PUBLIC LAW 94-265]—
SEVERABILITY

This section would declare the provisions of this Act to be severable, and if any part of the Act is declared unconstitutional or the applicability thereof is held to be invalid, then the constitutionality of the remainder and the applicability thereof would not be affected thereby.

COST OF THE LEGISLATION [SEC. 406]

In the event the legislation is enacted into law, the Committee estimates the cost to the Federal Government (based on information supplied by the Government agencies and their representatives) for the current fiscal year and for each of the next five succeeding fiscal years to be as follows:

IN SUMMARY

[In thousands of dollars]

Departments and programs	Fiscal year 1976	1976 transition period July 1 to Sept. 30	Fiscal year 1977	Fiscal year 1978	Fiscal year 1979	Fiscal year 1980	Fiscal year 1981
TRANSPORTATION (Coast Guard):							
Procurement.....	40,914	000	11,240	110,000	110,000	000	000
Start-up costs.....	3,520	000	3,850	1,650	1,980	000	000
Operating costs.....	7,432	11,148	29,541	36,526	43,440	43,440	43,440
Subtotal.....	51,866	11,148	44,631	148,176	155,420	43,440	43,440
COMMERCE: Fisheries management plan, operation of 7 regional councils, planning enforcement, research and statistics activities.....	4,000	2,000	21,000	25,000	30,000	35,000	40,000
STATE.....	0	0	0	0	0	0	0
Total.....	55,866	13,148	65,631	173,176	185,420	78,440	83,440

After reviewing the estimate of costs made by representatives of the Federal Government with respect to this Act, the Committee has concluded that at this time these estimates are reasonable and that the costs incurred in carrying out this Act will be consistent with those estimates subject to the following caveats: (1) these estimates are based on FY 1975 dollars; and (2) such estimates may need to be revised upward as circumstances change.

COMPLIANCE WITH CLAUSE 2(1)(3) OF RULE XI

With respect to the requirements of clause 2(1)(3) of House Rule XI of the Rules of the House of Representatives—

(A) No oversight hearings were held on the administration of this Act during this session of Congress. However, the Subcommittee on Fisheries and Wildlife Conservation and the Environment held 10 days of hearings on the predecessor legislation in the 93rd Congress, and two weeks of hearings on H. R. 200 and identical and similar bills during the first session of this Congress. The Subcommittee does plan to hold oversight hearings on the administration of this Act early in the next session of this Congress.

(B) Section 308(a) of the Congressional Budget Act of 1974 is

not presently in effect. Therefore, no statement is furnished.

(C) No estimate and comparison of costs has been received by the Committee from the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974.

(D) The Committee on Government Operations has sent no report to the Committee on Merchant Marine and Fisheries pursuant to clause 2(b)(2) of rule X.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 200 would have no significant inflationary impact on the prices and costs in the national economy.

DEPARTMENTAL REPORTS

The reports of the Departments of State, Interior, and Justice on H.R. 200 and related bills follow herewith:

DEPARTMENT OF STATE,
Washington, D.C., May 9, 1975.

HON. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MRS. SULLIVAN: This letter presents the views of the Executive Branch on H.R. 197, 200, 948, 1452, 1839, 2172, 2173 and 2712. It is in response to your requests to individual departments, which requests were in turn referred to the NSC Interagency Task Force on the Law of the Sea, in accordance with Executive Branch procedure.

The bills would extend the United States' contiguous fisheries zone from its present width of 9 miles beyond our 3-mile territorial sea to various distances. H.R. 200 also provides for the extension of United States jurisdiction over anadromous fish of U.S. origin to the full limit of their range in the oceans, except within the territorial waters or fisheries zone of another country. Under the bill the Secretary of State is also required to seek, inter alia, treaties or international agreements with appropriate foreign contiguous States on the boundaries between the waters adjacent to the United States and waters adjacent to such foreign countries for the purpose of rational utilization and conservation of the resources covered by H.R. 200.

We recognize that the coastal fishermen of the United States have encountered severe problems in recent years and that overfishing for some species has caused a depletion of the stocks involved. Accordingly, we are sympathetic to the need for a solution to the genuine problems which have prompted these bills. However, in our view the best solution can be attained by multilateral agreement in the Third United Nations Conference on the Law of the Sea. The first substantive session of the Conference was held in Caracas from June 20 to August 29, 1974; the second substantive session of the Conference is being held in Geneva from March 17 to May 10, 1975.

As you are aware, we forcefully put forth our fisheries position in the Law of the Sea Conference and made substantial progress towards our fisheries goals. A fully enforceable solution to the fisheries problem must be an internationally negotiated one supported by the community of nations. A unilateral declaration of fisheries jurisdiction at this time could seriously undermine our efforts in the Law of the Sea Conference and hamper the chances for a satisfactory settlement of the fisheries questions on a multilateral basis.

In the Law of the Sea negotiations, a large majority of nations, including the U.S., supported broad coastal State controls over coastal fisheries in a 200-mile economic zone. Thus, the outcome of the LOS Conference is likely to be an international agreement which will substantially enhance coastal State, and thus United States, control over coastal stocks. In addition, we believe it is important that a rational, effective international management system for highly migratory species, as well as host State regulation of anadromous species, be established.

Recognizing that the Law of the Sea Conference will take time to complete its work and that there will be additional delays pending ratification, there is indeed an interim problem with respect to our coastal fisheries. In light of this problem, we have taken steps to enhance the protection of our coastal stocks and to alleviate the problems of our coastal fishermen until a new international legal system for fisheries management is established. First, we have proposed that the fisheries regime agreed to by the Law of the Sea Conference go into effect on a provisional basis pending the actual entry into force of the treaty. Second, we are working to strengthen both bilateral and multilateral agreements with nations whose nationals conduct fishing operations off our coasts. Third, we have adopted stringent new enforcement guidelines for the protection of our continental shelf fisheries resources.

As an example of U.S. multilateral efforts, the International Commission for the Northwest Atlantic Fisheries (ICNAF) has developed a highly sophisticated and complex fisheries regulation system which governs the taking of all desired species, thus reducing the by-catch of species of importance to American fishermen. The overall foreign catch quotas in this area, lowered in 1974, have been further reduced by approximately 8% for 1975 and undoubtedly will be lowered again in 1976. U.S. catch quotas will be going up during this period. In addition, the regulatory system has been frequently refined during recent meetings to afford greater protection to American fishermen interested in haddock, yellowtail flounder, and herring. Moreover, the system of international enforcement of the ICNAF regulations is being constantly improved. Through all of these actions the strong special interest of the coastal nation in coastal species has been recognized.

Furthermore, in December, 1974, the U.S. and Japan reached agreement concerning fishing in the northeastern Pacific and Bering Sea. The new agreements established new and better balances between fishing effort and the abundance of the resource. Some principal features of the US-Japanese understanding include a reduction in the

Japanese catch of pollock of 400,000 tons; special controls on the Japanese harvest of various fish in the area by means of catch limitations as well as area and time closures; mutual arrangements regarding loading and transfer operations and restricted fishing in areas where U.S. fishermen concentrate their efforts; and new procedures by the Japanese to reduce and control the incidental catch of king and tanner crab. The Japanese also agreed to reduce their quota of king crab from 700,000 to 300,000 crabs (a reduction of nearly 60%) and to a smaller reduction in their total tanner crab catch (but with a 70-80 percent reduction in the Japanese quota in areas traditionally fished by U.S. crabbers). The two countries also made arrangements for enforcement measures with respect to crabs more stringent than any ever before agreed to by them, including an opportunity for the United States to observe the conduct of fishing operations on Japanese vessels.

It should be noted that ICNAF includes virtually all fisheries off our Atlantic coast, and that the Japanese conduct by far the largest fishery off our Pacific coast. However, the international protections we have are not limited to the examples cited above. We have additional arrangements on both coasts with a number of nations for the further protection of U.S. fishery interests.

We feel that these steps have significantly increased the protection of our coastal stocks, although we recognize that the problem is far from fully solved. While the bills under discussion are attempts to provide added protection for our coastal fisheries during this interim period, we believe that the legislation could nevertheless have serious harmful consequences both for the Law of the Sea negotiations and for the long-term fishing interests of the United States.

Implementation of this legislation would constitute unilateral action by the United States at the very time the world community is seeking a new regime for international fisheries through international agreement. Such unilateral action, in our opinion, runs counter to established fundamental principles of international law. It is the view of the United States that under existing international law no State has the right unilaterally to extend its fisheries jurisdiction to 200 miles, and we do not recognize such claims. A departure from this principle by the United States could encourage similar claims by other countries. The nature of such foreign claims would not necessarily be influenced by the interim nature or "reasonableness" of our own action, and could include claims to other alleged rights such as those affecting navigation and overflight, straits, and scientific research. Moreover, this action could lead some States to seek to delay or to impede the work of the Conference, thus threatening the possibility of agreement. It would disrupt our cooperation with like-minded States in the Law of the Sea negotiations and could directly undercut our fisheries proposals in the conference. The interim character of the legislation does not render it less troublesome in these respects. Furthermore, in our opinion, the harm done to overall national interests in the achievement of a successful international agreement by this type of unilateral action would far outweigh any short-term, interim benefits.

Moreover, a unilateral extension of our contiguous fisheries zone as

outlined in these bills would not fully protect all our fishing interests, which are both coastal and distant. Our distant water fishing interests, such as the tuna and shrimp industries, would actually be prejudiced by our unilateral action. The United States would be compelled, in effect, to recognize extended fisheries zones of other coastal States, at least to the extent of our own unilateral claim, and, in addition to a direct effect on our distant fishing rights, this would have detrimental implications for the coverage of the Fishermen's Protective Act of 1967. Furthermore, there is no reason to believe that distant water fishing nations would recognize our unilateral claims, thereby creating serious foreign policy and enforcement problems. In order to be effective, the extension of jurisdiction contemplated under these bills would require an increase in enforcement capability to patrol adequately the expanded area. Adm. O. W. Siler, Commandant of the U.S. Coast Guard, reported on the Coast Guard's current planning in this regard in his letter to Mr. Murphy dated August 23, 1974.

In the Law of the Sea Conference, the United States has introduced a fisheries proposal which is based on acceptance of a 200-mile economic zone and which offers a rational management system for the U.S. fishing industry, as well as the diverse interests of the international community.

Our proposal is based on an approach that reflects our overall view that coastal state control over coastal species within the economic zone and host State control over anadromous fish should be subject to international standards and compulsory dispute settlement so as to protect the interests of all States and the international community in general. The jurisdiction exercised by the coastal State over coastal species would be limited to the zone. Each coastal State would have a preferential right to that portion of the allowable catch it could harvest. The remaining portion would be open to harvest by fishermen of other nations, subject to nondiscriminatory coastal State conservation measures and reasonable fees to defray their share of the cost of such regulation. The extent to which the coastal State preference would reduce traditional distant water fishing would be determined through negotiations at the Law of the Sea Conference.

Under our proposal, anadromous species would be subject to the jurisdiction of host State of origin. On the other hand, highly migratory stocks, such as tuna, would be managed by international organizations in which all fishing and coastal States could participate. These organizations would manage stocks subject to the same international standards and compulsory dispute settlement procedures as envisioned for coastal species.

As indicated above, at Caracas a large majority of nations supported broad coastal State control over coastal fisheries. Even major distant water fishing States recognized that an overall Law of the Sea treaty will include greater protection for coastal States' fisheries interests than exists at present. Thus, we feel that the best resolution of the fisheries question can be attained by multilateral agreement in the Law of the Sea Conference.

Furthermore, from the standpoint of the rational management of marine resources, all fishing activities—both domestic and foreign—must be considered. Provision must be made for the development of

regional fisheries management plans prepared on the basis of advice and input from State government officials and affected local interests. The Federal Government must hold a position of general leadership and authority for regulating fisheries, but this leadership and authority must be exercised in cooperation with the State governments and other interests. We are developing such management plans so that, at the conclusion of the Law of the Sea Conference, we will be able to move quickly to institute effective management over the resources off our coasts.

For the reasons stated above, the executive branch opposes the enactment of the bills discussed in this letter.

The Office of Management and Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

Sincerely,

JOHN NORTON MOORE,

*Chairman, the NSC Interagency Task Force on the Law of the Sea, and Deputy Special Representative of the President,
for the Law of the Sea Conference.*

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., March 6, 1975.

HON. LEONOR K. SULLIVAN,
*Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.*

DEAR MADAM CHAIRMAN: Your committee has requested the views of this Department on the following bills:

H.R. 197—To establish a contiguous fishery zone (200-mile limit) beyond the territorial sea of the United States.

H.R. 200—To extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes.

H.R. 948—To establish a contiguous fishery zone of the United States beyond its territorial seas at a distance of 200 miles or the length of the Continental Shelf, whichever is greater.

H.R. 1070—To provide for the conservation and management of fisheries, and for other purposes.

H.R. 1452—To extend the contiguous fisheries zone of the United States to a distance of 197 miles seaward of the territorial sea.

H.R. 1839—To establish a contiguous fishery zone (200-mile limit) beyond the territorial sea of the United States."

H.R. 1840—To amend the act entitled "An Act to establish a contiguous fishery zone beyond the territorial sea of the United States," approved October 14, 1966, to require that the method of straight baselines shall be employed for the purposes of determining the boundaries of such fishery zone, and for other purposes.

H.R. 2172—To establish fishing zones of the United States beyond its territorial seas, and for other purposes.

H.R. 2173—To establish a contiguous fishery zone (to the outer limits of the Continental Shelf) beyond the territorial sea of the United States.

H.R. 2712—To amend the Act entitled "An act to establish a contiguous fishery zone beyond the territorial sea of the United States, approved October 14, 1966.

H.R. 3412—To extend the fisheries management responsibility and authority of the United States over fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

All of these bills are similar in that they would each, in some manner, extend the United States jurisdiction over coastal fisheries beyond the twelve mile limit over which we not exercise jurisdiction. Since all of these bills involve major questions regarding their impact on the United States position in the current Law of the Sea negotiations, the responsibility for developing Executive Branch policy on this legislation has been assigned to the Law of the Sea Task Force under the aegis of the Department of State. We understand that the views of the Executive Branch on these bills have been transmitted to your Committee by the Department of State on behalf of the Law of the Sea Task Force. Accordingly we defer to the recommendations contained in that report.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

JOHN H. KYL,
Assistant Secretary of the Interior.

DEPARTMENT OF JUSTICE,
Washington, D.C., May 16, 1975.

HON. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: This is in response to your request for comments on H.R. 200, a bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes.

H.R. 200 would extend the exclusive fisheries jurisdiction of the United States to a 200-mile zone contiguous to our coasts. The bill would also extend U.S. jurisdiction over its anadromous fish to wherever those fish are found.

As you are aware, the entire question of jurisdiction over resources of the high seas is a subject of major concern at the continuing Third United Nations Conference on the Law of the Sea. Although no resolution of the problem has yet been reached, it is anticipated that the Conference will result in an international agreement. Pending final outcome of the Conference, the National Security Council's Law of the Sea Task Force is responsible for preparing coordinated replies of the executive branch with respect to matters bearing on the negotiations at the Conference. We have been informed by the task force that such a coordinated response, including the views of the Department of Justice, will be submitted in connection with this bill.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

A. MITCHELL McCONNELL, Jr.,
Acting Assistant Attorney General,
Office of Legislative Affairs.

CHANGES IN EXISTING LAW MADE BY THE BILL AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

ACT OF OCTOBER 14, 1966 (SEC. 402(a))

(80 Stat. 908; 16 U.S.C. 1091-4)

[AN ACT To establish a contiguous fishery zone beyond the territorial sea of the United States.

[Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is established a fisheries zone contiguous to the territorial sea of the United States. The United States will exercise the same exclusive rights in respect to fisheries in the zone as it has in its territorial sea, subject to the continuation of traditional fishing by foreign states within this zone as may be recognized by the United States.

[SEC. 2. The fisheries zone has as its inner boundary the outer limits of the territorial sea and as its seaward boundary a line drawn so that each point on the line is nine nautical miles from the nearest point in the inner boundary.

[SEC. 3. Whenever the President determines that a portion of the fisheries zone conflicts with the territorial waters or fisheries zone of another country, he may establish a seaward boundary for such portion of the zone in substitution for the seaward boundary described in section 2.

[SEC. 4. Nothing in this Act shall be construed as extending the jurisdiction of the States to the natural resources beneath and in the waters within the fisheries zone established by this Act or as diminishing their jurisdiction to such resources beneath and in the waters of the territorial seas of the United States.]

SECTIONS 2 AND 3, FISHERMEN'S PROTECTIVE ACT OF 1967, AS AMENDED (SEC. 403)

(68 Stat. 883; 22 U.S.C. 1972-1973)

[Sec. 2. In any case where—

[(a) a vessel of the United States is seized by a foreign country

on the basis of rights or claims in territorial waters or the high seas which are not recognized by the United States; and

[(b) there is no dispute of material facts with respect to the location or activity of such vessel at the time of such seizure, [the Secretary of State shall as soon as practicable take such action as he deems appropriate to attend to the welfare of such vessel and its crew while it is held by such country, to secure the release of such vessel and crew, and to immediately ascertain the amount of any fine fee, or other direct charge which may be reimbursable under section 3(a).]

SEC. 2. In any case where—

(1) *any vessel of the United States is seized by a foreign country on the basis of rights or claims in territorial waters or the high seas which are not recognized by the United States; or*

(2) *any vessel of the United States is seized by a foreign country while such vessel is engaged in fishing in any area of the high seas (and the rights or claims to fisheries conservation and management jurisdiction in such area by such country are recognized by the United States) for a specific stock of fish (including, but not limited to, tuna and any other highly migratory species of fish), and vessels of the United States have previously fished in such area for such stock,*

and there is no dispute of material facts with respect to the location or activity of such vessel at the time of such seizure, the Secretary of State shall as soon as practicable take action to attend to the welfare of such vessel and its crew while it is held by such country to secure the release of such vessel and crew, and to immediately ascertain the amount of any fine, license, fee, registration fee, or any other direct charge which may be reimbursable under section 3(a) of this Act.

SEC. 3. (a) In any case where a vessel of the United States is seized by a foreign country under the conditions of section 2 and a fine, license fee, registration fee, or any other direct charge must be paid in order to secure the prompt release of the vessel and crew, the owners of the vessel shall be reimbursed by the Secretary of the Treasury in the amount certified to him by the Secretary of State as being the amount of the fine, license fee, registration fee, or any other direct charge actually paid. For purposes of this section, the term "other direct charge" means any levy, however characterized or computed (including, but not limited to, computation based on the value of a vessel or the value of fish or other property on board a vessel), which is imposed in addition to any fine, license fee, or registration fee. Any reimbursement under this section shall be made from the Fishermen's Protective Fund established pursuant to section 9.

(b) The Secretary of State shall make a certification under subsection (a) of this section as soon as possible after he is notified pursuant to section 2(b) of the amounts of the fines, fees, and other direct charges which were paid by the owners to secure the release of their vessel and crew. The amount of reimbursement made by the Secretary of the Treasury to the owners of any vessel under subsection (a) of this section shall constitute a lien on the vessel which may be recovered in proceedings by libel in rem in the district court of the United States for any district within which the vessel may be. Any such lien shall termi-

nate on the ninetieth day after the date on which the Secretary of the Treasury reimburses the owners under this section unless before such ninetieth day the United States initiates action to enforce the lien.

ACT OF MAY 20, 1964 AS AMENDED (SEC. 402(b))

(78 Stat. 194-6; 16 U.S.C. 1081-6)

AN ACT To prohibit fishing in the territorial waters of the United States and in certain other areas by vessels other than vessels of the United States and by persons in charge of such vessels.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That it is unlawful for any vessel, except a vessel of the United States, or for any master or other person in charge of such a vessel, to engage in the fisheries within the territorial waters of the United States, its territories and possessions and the Commonwealth of Puerto Rico, or within any waters in which the United States has the same rights in respect to fisheries as it has in its territorial waters or in such waters to engage in activities in support of a foreign fishery fleet or to engage in the taking of any Continental Shelf fishery resource which appertains to the United States except as provided in this Act or as expressly provided by an international agreement to which the United States is a party. However, sixty days after written notice to the President of the Senate and the Speaker of the House of Representatives of intent to do so, the Secretary of the Treasury may authorize a vessel other than a vessel of the United States to engage in fishing for designated species within the territorial waters of the United States or within any waters in which the United States has the same rights in respect to fisheries as it has in its territorial waters or for resources of the Continental Shelf which appertain to the United States upon certification by the Secretaries of State and of the Interior that such permission would be in the national interest and upon concurrence of any State, Commonwealth, territory, or possession directly affected. The authorization in this section may be granted only after a finding by the Secretary of the Interior that the country of registry, documentation, or licensing extends substantially the same fishing privileges for a fishery to vessels of the United States. Notwithstanding any other provision of law, the Secretary of State, with the concurrence of the Secretaries of the Treasury and of the Interior, may permit a vessel, other than a vessel of the United States, owned or operated by an international organization of which the United States is a member, to engage in fishery research within the territorial waters of the United States or within any waters in which the United States has the same rights in respect to fisheries as it has in its territorial waters, or for resources of the Continental Shelf which appertain to the United States and to land its catch in a port of the United States in accordance with such conditions as the Secretary may prescribe whenever they determine such action is in the national interest.]

That (a) it is unlawful for any vessel, except a vessel of the United States,

or for any master or other person in charge of such a vessel, to engage in fishing—

(1) within the territorial waters of the United States, its territories and possessions, and the Commonwealth of Puerto Rico;

(2) within the fisheries conservation and management zone established by title I of the Marine Fisheries Conservation Act of 1975 unless such fishing is authorized under a permit issued pursuant to section 201 of such Act;

(3) for any anadromous species beyond such fisheries conservation and management zone for which a fishery management plan has been implemented under title III of such Act of 1975 unless such fishing is authorized under a permit issued pursuant to section 201 of such Act of 1975; and

(4) for any Continental Shelf fishery resource.

(b) Notwithstanding any other provision of law, the Secretary of Commerce, with the concurrence of the Secretary of State, may permit a vessel, other than a vessel of the United States, owned or operated by an international organization of which the United States is a member, to engage in fishery research within the territorial waters of the United States or within the fisheries conservation and management zone established by title I of the Marine Fisheries Conservation Act of 1975 or for Continental Shelf fisheries resources and to land its catch in a port of the United States in accordance with such conditions as the Secretary may prescribe whenever they determine such action is in the national interest.

* * * * *

SEC. 5. (a) As used in this Act, the term "Continental Shelf fishery resource" includes the living organisms belonging to sedentary species; that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil of the Continental Shelf.

(b) The Secretary of the Interior in consultation with the Secretary of State is authorized to publish in the Federal Register a list of the species of living organisms covered by the provisions of subsection (a) of this section.

(c) As used in this Act, the term ["fisheries"] "*fishing*" means the taking, planting, or cultivation of fish, mollusks, crustaceans, or other forms of marine animal or plant life by any vessel or vessels; and the term "fish" includes mollusks, crustaceans, and all other forms of marine animal or plant life.

(d) As used in this Act, the term "Continental Shelf" refers (a) to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas; (b) to the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

SECTION 2(4) OF THE ATLANTIC TUNAS CONVENTION ACT OF 1975

(Public Law 94-70) (Sec. 405)

SEC. 2. For the purpose of this Act—

* * * * *

(4) The term “fisheries zone” means [the entire zone established by the United States under the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091-1094),] *the fisheries conservation and management zone established by title I of the Marine Fisheries Conservation Act of 1975*, or similar zones established by other parties to the Convention to the extent that such zones are recognized by the United States.

SECTION 3(15)(B) OF THE MARINE MAMMAL PROTECTION ACT OF 1972

(86 Stat. 1029; 16 U.S.C. 1362(15)(B)) (Sec. 404)

SEC. 3. For the purposes of this Act—

* * * * *

(15) The term “waters under the jurisdiction of the United States” means—

(A) the territorial sea of the United States, and

(B) [the fisheries zone established pursuant to the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091-1094).] *the fisheries conservation and management zone established by title I of the Marine Fisheries Conservation Act of 1975.*

APPENDIX I

A PRELIMINARY LISTING OF MARINE FISHERY RESOURCES WHICH ARE DEPLETED, IN IMMINENT DANGER OF DEPLETION, OR UNDER INTENSIVE USE

(Prepared by the National Marine Fisheries Service, NOAA, Department of Commerce, August 1975)

A. Table I-1 was prepared in order to detail fishery resources for which the Secretary of Commerce would be required to prepare management plans following enactment of H.R. 200, *The Marine Fisheries Conservation Act of 1975*, as explained in Section 308(a). The condition of a species or species group is designated as:

(1) "depleted" if maximum sustainable yield (MSY) has been exceeded and yields are currently less than MSY;

(2) in "imminent danger" if MSY has been reached but no decrease in yield has been observed and if the fleets operating in an area have sufficient fishing power to cause depletion of the resource;

(3) under "intensive use" if MSY is being approached.

Dashes between two designations are used to indicate the range of designations which could be applied to a species or species group in a given area when no single designation is appropriate. Slashes between two designations indicate a border line case. The reference to "unregulated because of the absence of management authority * * *", contained in Section 308(a), is difficult to interpret. Species or species groups for which fisheries are currently regulated are indicated by footnote, but no assumptions, concerning management authority or regulations at the time of enactment, were made in designating a species or group as being under "intensive use". General notes following the list provide additional information which may be useful in its interpretation.

TABLE I-1

I. Northwest Atlantic and Middle Atlantic Bight (Canadian border to Virginia-North Carolina border)

Species/species group	Condition
Finfish:	
American dab (american plaice) ^{1 2} -----	Intensive Use.
Black sea basses ^{3 4 5 6} -----	Do.
Bluefish ^{3 4 5 6 14} -----	Do.
Cod ^{1 2} -----	Intensive use/Imminent danger.
Flukes ^{3 4 5 6 14} -----	Imminent danger.
Grey sole (witch flounder) ^{1 2} -----	Do.
Haddock ^{1 2} -----	Depleted.
Mackerel ^{2 6} -----	Imminent danger.
Menhaden ^{3 4 5 6 15} -----	Depleted.
Ocean perch (redfish) ^{1 2} -----	Intensive use.
Scups or porgies ^{3 4 5 6} -----	Do.
Red hake ^{2 3 4 5 6} -----	Imminent danger.
Sea herring (Atlantic herring) ^{2 3 6} -----	Depleted.
Silver hake ^{2 3 4 5 6} -----	Intensive use.
Winter flounder ^{1 2} -----	Imminent danger.
Yellowtail flounder ^{2 3 4 5 6} -----	Depleted.

See footnotes at end of table.

TABLE I-1—Continued

<i>Species/species group</i>	<i>Condition</i>
Shellfish:	
American lobster ^{3 5 6 14 15} -----	Intensive use.
Blue crab ¹⁴ -----	Do.
Hard clams ¹⁴ -----	Do.
Oysters ¹⁴ -----	Intensive use— depleted.
Softshell clam ¹⁴ -----	Intensive use.
Pandalid shrimps ^{14 15} -----	Depleted.
Sea scallop ² -----	Do.
Surf clam ¹⁵ -----	Intensive use.

II. Southeast U.S. coast (Virginia-North Carolina border to Florida Keys east of 81° W. long.)

<i>Species/species group</i>	<i>Condition</i>
Finfish:	
Atlantic mackerel ^{2 6} -----	Imminent danger.
Menhaden-----	Depleted.
Shellfish:	
Shrimps ¹⁴ -----	Intensive use.
Spiny lobster ¹⁴ -----	Do.
Stone crab ¹⁴ -----	Do.

III. Gulf of Mexico (Florida west of 81° W. long. to Mexican border)

<i>Species/species group</i>	<i>Condition</i>
Finfish:	
Groupers-----	Intensive use.
Menhaden ¹⁵ -----	Do.
Snappers-----	Do.
Shellfish:	
Oysters ¹⁴ -----	Intensive use—depleted.
Shrimps ^{14 15} -----	Imminent danger.
Spiny lobster ¹⁴ -----	Intensive use.
Stone crab-----	Do.

IV. Southwest U.S. coast (Cape Mendocino, Calif., south to Mexican border)

<i>Species/species group</i>	<i>Condition</i>
Finfish:	
Pacific barracuda ¹⁴ -----	Imminent danger— depleted.
California yellowtail ¹⁴ -----	Intensive use.
Hake (Pacific hake) ^{3 6} -----	Imminent danger— depleted.
Pacific Bonito-----	Imminent danger.
Pacific mackerel ^{4 14} -----	Depleted.
Pacific sardine ¹⁴ -----	Do.
Rockfishes (including Pacific Ocean perch) ^{3 4 6 14} -----	Intensive use.
Sea herring (Pacific herring) ^{3 8 14} -----	Do.
White sea bass ¹⁴ -----	Do.
Shellfish:	
Abalones ¹⁴ -----	Intensive use—depleted.
Dungeness crabs ^{14 15} -----	Intensive use.
Pismo clam ¹⁴ -----	Intensive use—depleted.
Shrimps ¹⁴ -----	Do.
Spiny lobster ¹⁴ -----	Imminent danger.

See footnotes at end of table.

TABLE I-1—Continued

V. Northeast Pacific (Cape Mendocino, Calif., north to Canadian border)

<i>Species/species group</i>	<i>Condition</i>
Finfish:	
Cod (Pacific cod)-----	Intensive use.
Flounders (Pacific flounders and soles) ^{4 6} -----	Do.
Hake (Pacific hake) ^{3 6} -----	Imminent danger— depleted.
Halibut (Pacific halibut) ^{3 4 7 8 12 14} -----	Depleted.
Rockfishes (including Pacific Ocean perch) ^{3 4 6} -----	Imminent danger— depleted.
Sablefish (black cod) ^{3 4} -----	Intensive use.
Shellfish:	
Dungeness crabs ^{14 15} -----	Do.
Razor clams ¹⁴ -----	Do.
Shrimps (Pandalid shrimps) ¹⁴ -----	Do.

VI. Alaska

<i>Species/species group</i>	<i>Condition</i>
Finfish:	
Alaska pollock ³ -----	Depleted.
Flounders ^{4 6} (Bering Sea only)-----	Do.
Halibut ^{3 4 7 8 12 14} -----	Do.
Pacific cod-----	Imminent danger.
Rockfishes (including Pacific Ocean perch) ^{3 4 6} -----	Imminent danger— depleted.
Sablefish (black cod) ^{3 4} -----	Imminent danger.
Shellfish:	
Dungeness crab ¹⁴ -----	Intensive use.
King crab ^{3 6 14} -----	Do.
Shrimps ^{4 14} -----	Do.
Tanner crabs ^{3 6 14} (Gulf of Alaska)-----	Do.

VII. Insular fisheries of the Caribbean

Species lists to be developed.

VIII. Insular fisheries of the Pacific

Species lists to be developed. (Most coastal Hawaiian stocks are depleted.)

IX. Highly migratory species

<i>Species/species group</i>	<i>Condition</i>
Finfish:	
Albacore-----	Intensive use.
Bluefin tuna ¹⁰ (both Atlantic and Pacific)-----	Imminent danger— depleted.
Yellowfin tuna ¹⁰ (Atlantic)-----	Intensive use.
Yellowfin tuna ⁹ (Pacific)-----	Imminent danger.

X. Anadromous species

<i>Species/species group</i>	<i>Condition</i>
Alewife (a river herring) ^{3 5 6 14} -----	Depleted.
American shad (a river herring) ^{3 5 6 14} -----	Intensive use—depleted.
Atlantic salmon-----	Depleted.
Blueback herring (a river herring) ^{3 5 6 14} -----	Do.
Hickory shad (a river herring) ^{3 5 6 14} -----	Intensive use—depleted.
Pacific salmon ^{3 4 8 11 12 14} -----	Do.

See footnotes at end of table.

TABLE I-1—Continued

Sea run trout ¹⁴ -----	Do.
Striped bass ¹⁴ -----	Do.

NUMBERED NOTES

Regulations applying to various species and species groups under:

- ¹ International Commission for the Northwest Atlantic Fisheries. U.S. participates in management planning, but does not normally participate in fisheries in Areas 0, 1, 2, 3.
- ² International Commission for the Northwest Atlantic Fisheries.
- ³ United States-Japan bilateral agreements.
- ⁴ United States-Poland bilateral agreement.
- ⁵ United States-Romania bilateral agreement.
- ⁶ U.S.-U.S.S.R. bilateral agreements.
- ⁷ International Pacific Halibut Commission, and the Halibut Convention.
- ⁸ International North Pacific Fisheries Commission.
- ⁹ Inter-American Tropical Tuna Commission.
- ¹⁰ International Commission for the Conservation of Atlantic Tunas.
- ¹¹ International Pacific Salmon Fisheries Commission.
- ¹² United States-Korea bilateral agreement.
- ¹³ United States-Brazil bilateral agreement.
- ¹⁴ Various State regulations apply to this group.
- ¹⁵ Cooperative State/Federal management plans exist or are currently being formulated.

GENERAL NOTES

- a. Species or groups of species found within 200 miles of U.S. shores and included in bilateral agreements or regulations of international commissions are arbitrarily included (exceptions: Anchovy, Argentines, sea snails).
- b. Species regulated under "other finfish" in ICNAF regulations, but not identified by species or species group are not listed.
- c. There are some differences between the terminology used in EJ-75-14 (list of species by fisheries category) and EJ-75-16 (regulations in effect Under Fisheries Management Plans Established Under Treaties and Bilateral Agreements to which the United States is Party, July 1, 1975). Terminology of EJ-75-16 is inserted parenthetically in the above listing.
- d. Marine mammals, birds, reptiles, and plants are not considered.

B. Table I-2 used in conjunction with Table I-1 permits determination of the degree of foreign versus domestic exploitation of various fish stocks.

TABLE I-2.—GENERAL STATUS OF KNOWLEDGE FOR MAJOR SPECIES OR SPECIES GROUPS OF THE U.S. MARINE FISHERY RESOURCE

Species/group	General locality	Ranking	
		Catch/effort	Catch equation and/or MSY estimates
Group I. Exploited primarily by foreign fleets:			
Atlantic mackerel ¹⁴	Northwest Atlantic	3	3
Red hake ¹	do	3	3
Silver hake ¹	do	3	3
Herring ¹	do	3	3
River herrings ¹³⁴	do	3	3
Squids ¹	do	3	1
Pacific cod	Northeast Pacific	2	2
Pacific hake	do	2	2
Herring ²	do	2	3
Ocean perch ²	do	3	3
Alaska pollock ²	do	3	3
Sablefish ²	do	3	3
Tanner (snow) crab	do	3	1
Group II. Exploited by domestic and foreign fleets:			
Atlantic Cod ¹⁴	Northwest Atlantic	3	3
Atlantic Ocean Perch ¹	do	3	2
Haddock ¹⁴	do	3	4
Winter flounder ¹⁴	do	3	1
Other flounders ¹	do	3	1
Scup or porgy ⁴	Northwest Atlantic and West-central Atlantic	2	1
Flounders ³	Northeast Pacific	2	2
Halibut	do	3	3
Rockfishes ³	Northeast Pacific and East Central Pacific	3	2

See footnotes at end of table.

TABLE 1-2.—GENERAL STATUS OF KNOWLEDGE FOR MAJOR SPECIES OR SPECIES GROUPS OF THE U.S. MARINE FISHERY RESOURCE—Continued

Species/group	General locality	Ranking	
		Catch/effort	Catch equation and/or MSY estimates
Group III: Exploited primarily by domestic fleets:			
Bluefish ¹	Northwest Atlantic	2	1
Drums and croakers ¹	do	2	1
Sea trouts ¹	do	2	1
Spot ¹	do	2	1
Striped bass ¹	do	3	1
Summer flounder ¹	do	2	1
White Hake ¹	do	3	2
Yellowtail flounder ¹	do	3	3
Menhaden	do	4	3
Bluefish ¹	West-central Atlantic	2	1
Drums and croakers ¹	do	2	1
Flounders ¹	do	2	1
Menhaden	do	4	3
King mackerels ¹	do	2	1
Mulletts	do	3	1
Scup ¹	do	2	1
Snappers/groups ¹	do	2	1
Spot ¹	do	2	1
Sea trouts ¹	do	2	1
Striped bass ¹	do	3	1
Group III: Exploited primarily by domestic fleets:			
California anchovy	East central Pacific	1	3
California sardine	do	4	1
Flounders	do	3	3
Jack mackerel ¹	do	1	3
Pacific mackerel ¹	do	1	1
Crabs	Northwest Atlantic	3	3
Lobsters	do	3	2
Scallops	do	3	2
Shrimps	do	2	1
Surf clams	do	4	2
Hard clams	do	2	2
Oysters	do	4	1
Crabs	West central Atlantic	3	2
Hard clams	do	1	1
Lobsters	do	1	2
Oysters	do	4	1
Scallops	do	3	1
Shrimps ¹	do	3	2
Crabs	East central Pacific and Northeast Pacific	3	2
King crab	Northeast Pacific	3	4
Shrimps	do	4	3
Group IV: Highly Migratory and Anadromous Species Exploited Primarily by Domestic Fisheries:			
Pacific salmon:			
Chinook ¹	do	4	2
Chum	do	4	2
Coho ¹	do	4	2
Pink	do	4	2
Sockeye	do	4	2
Tunas, Pacific:			
Albacore	East central Pacific	3	1
Bigeye	do	3	1
Bluefin	do	1	1
Skipjack	do	3	2
Yellowfin	do	3	3
Tunas	East Central Atlantic	3	3
Tunas ¹	West central Atlantic and Northwest Atlantic	3	3

¹ Total allowable catches (TAC's) are now assigned under ICNAF agreements.² TAC established under United States-Japan bilateral negotiations.³ TAC established under U.S.-U.S.S.R. bilateral negotiations.⁴ There are substantial recreational fisheries for these species/groups; catch and effort data are largely unavailable from these fisheries; data should be used with caution.*Explanation of ranking*

Catch/effort data:	Rank
Adequate	4
Preliminary	3

Some data available.....	2
No data.....	1
Catch equation production model (C/E equation) and/or MSY estimate:	
Adequate.....	4
Preliminary.....	3
Data available.....	2
No data.....	1

SUPPLEMENTARY VIEWS ON H.R. 200

Though I am in support of H.R. 200, I believe the Committee should assume an obligation to review a very important problem relating to the protection of our fishery resources. H.R. 200 as reported excludes from the coverage of the bill highly migratory species of fish. [Secs. 2(b) (2) ; 103] These species include not only tuna, but also all billfish—marlins, swordfish and sailfish. The billfish are important both in terms of their economic value and their special value to sport fishing.

Sport fishing is one of the most important resources in our coastal areas. It is estimated that there are some 34 million anglers fishing in our U.S. oceans. United States sport fishing each year is a \$2.6 billion industry.

There are two basic reasons offered in excluding the prime catch of sport fishermen from H.R. 200. First, many of the highly migratory species are under the jurisdiction of international fishery agreements. [Secs. 2(b) (2) ; 103] Second, these species are not threatened by over-fishing. I believe both of these premises are open to serious question.

Virtually all international fisheries organizations are presently beset by serious deficiencies. They are not constituted with sufficient legal authority and enforcement capacity to manage the fishery, and therefore have no real control. They also are least likely to be effective in those situations where exploitation pressure is greatest.

The second problem is the very disturbing evidence of the decline in the stock of various highly migratory species. Data indicates that after remaining constant for some 20 years, the catch of bluefin tuna in all Atlantic waters has declined some 70 percent since 1964. Comparative data from U.S. purse seine fisheries, Japanese longline statistics and the U.S. recreation catch indicates that western Atlantic stocks are now exhibiting a similar decline to that seen in the eastern Atlantic, but at an earlier stage. The catch rate for blue marlin has declined 92 percent between 1956 and 1970. The catch rate for white marlin has dropped 61 percent between 1962 and 1970.

Another premise advanced for excluding highly migratory species of fish from H.R. 200 is that this could be used to our advantage in future treaty negotiations. [Secs. 2(b) (2) ; 103] This argument does not, however, apply to billfish. It also appears to rest on the assumption of treaty negotiations involving foreign nations desiring to fish for these highly migratory species in U.S. waters, which is not the case.

I believe the Committee should assume the responsibility for careful oversight of the serious problems facing billfish and other highly migratory species. In my judgment we must not ignore this vast segment of U.S. fishery resources in our work to perfect H.R. 200.

[Secs. 2(b) (2) ; 103]

Bo GINN.

DISSENTING VIEWS ON H.R. 200

I strongly support the general thrust of this bill which is to give our American fishermen the protection of the federal government from overfishing by fishermen of other nations. This has become a very serious problem in recent years in light of the inability of international negotiations on this subject to produce results even while most nations agree on the need for an expansion of national jurisdictions in the fishing area. I have co-sponsored legislation to declare the waters contiguous to the territorial sea a federal fisheries zone out to 200 miles from the coast.

I cannot, however, support this bill because it also extends federal jurisdiction over waters that are traditionally under the jurisdiction of the states. [Sec. 306(b) (1)] I do not agree with those who feel that federal management of fisheries within the territorial sea is necessary to protect American fishermen against predatory practices of fishermen of other nations, and I certainly do not regard it as desirable. The states have done an excellent job of managing species within the area of their jurisdiction. The Wildlife and Fisheries Commission of my home state of Louisiana spends more funds on the management of shrimp in Louisiana waters alone than the National Marine and Fisheries Service spends on management of *all* species in the Gulf of Mexico. I do not believe that there is any basis for giving the Secretary of Commerce the power to unilaterally declare, without further Congressional action, that state action or inaction has so substantially and adversely affected the carrying out of federal management activities beyond the territorial sea that fishing within state waters will thereafter be subject to federal regulations. [Sec. 306(b) (1)] I am pleased that my colleagues agreed to amendments to clarify the language of the bill as reported by the Subcommittee, which could have been construed as extending federal jurisdiction to the internal waters of the state far shoreward of the coastline. [Sec. 306] I believe that the same principles that made such an amendment in Committee desirable make the striking of Section 309 (b) [306(b)] and (c), with a conforming amendment to (a) [306(a)], preferable. State practices within the coastline are just as likely to affect the federal programs in the contiguous zone as are state practices within the territorial sea. Why should not the traditional boundary of the territorial sea be maintained? [Sec. 306]

I question the very constitutionality of this proposal, which is violative of the rights reserved to the states by the Tenth Amendment. [Sec. 306(b)] I believe that those members who discuss this portion of the bill with their state fish and wildlife management agencies and with their commercial and sport fishermen will find great opposition to this transfer of management authority. [Sec. 306(b) (1)] This opposition will undermine the cooperation which will be necessary if under-financed federal efforts to maintain a management program in the contiguous zone is to succeed. [Sec. 306(b) (1)]

DAVID C. TREEN.

94TH CONGRESS
1ST SESSION

H. R. 200

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 1975

Mr. STUDDS (for himself, Mr. DON H. CLAUSEN, Mr. ASHLEY, Mr. DOWNING, Mr. ROONEY, Mr. SARBANES, Mr. BOWEN, Mr. DE LUGO, Mr. BONKER, Mr. D'AMOURS, Mr. YOUNG of Alaska, Mr. LAGOMARSINO, Mr. EMERY, Mr. BURKE of Massachusetts, Mr. COHEN, Mr. COUGHLIN, Mr. DOMINICK V. DANIELS, Mr. DAVIS, Mr. HARRINGTON, Mr. HICKS, Mr. MILLER of California, Mr. RODINO, Mr. ROSE, Mr. SOLARZ, and Mr. STARK) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Interim Fisheries Zone
4 Extension and Management Act of 1973".

5 FINDINGS AND STATEMENT OF PURPOSE

【Sec. 2(a)】

6 SEC. 2. (a) The Congress finds—

7 (1) that valuable coastal and anadromous species of
8 fish and marine life off the shores of the United States
9 are in danger of being seriously depleted and, in some
10 cases, of becoming extinct;

1 (2) that stocks of coastal and anadromous species
2 within the nine-mile contiguous zone and three-mile ter-
3 ritorial sea of the United States are being seriously de-
4 pleted by foreign fishing efforts beyond the existing
5 twelve-mile fisheries zone near the coastline of the
6 United States;

7 (3) that international negotiations have so far
8 proved incapable of obtaining timely agreement on the
9 protection and conservation of threatened species of fish
10 and marine life;

11 (4) that there is further danger of irreversible de-
12 pletion before efforts to achieve an international agree-
13 ment on jurisdiction over coastal and anadromous fish-
14 eries result in an operative agreement; and

15 (5) that it is therefore necessary for the United
16 States to take interim action to protect and conserve
17 overfished stocks and to protect our domestic fishing
18 industry.

【Sec. 2(b)】

19 (b) It is the purpose of this Act, as an interim measure,
20 to extend the contiguous fisheries zone of the United States
21 and certain authority over anadromous fish of the United
22 States in order to provide proper conservation management
23 for such zone and fish and to protect the domestic fishing in-
24 dustry until general agreement is reached in international
25 negotiations on law of the sea with respect to the size of such

1 zones and authority over such fish, and until an effective inter-
2 national regulatory regime comes into full force and effect.

3 EXTENSION OF CONTIGUOUS FISHERIES ZONE

4 **【Secs. 101; 402】**

5 SEC. 3. Section 2 of the Act entitled "An Act to estab-
6 lish a contiguous fishery zone beyond the territorial sea of
7 the United States," approved October 14, 1966 (80 Stat.
8 908), is amended by striking "nine nautical miles from the
9 nearest point in the inner boundary." and inserting in lieu
10 thereof "one hundred ninety-seven miles from the nearest
11 point in the inner boundary."

12 EXTENSION OF JURISDICTION OVER ANADROMOUS FISH

13 **【Sec. 102(2)】**

14 SEC. 4. (a) The United States hereby extends its jur-
15 isdiction to its anadromous fish wherever they may range
16 in the oceans to the same extent as the United States exer-
17 cises jurisdiction over fish in its territorial waters and con-
18 tiguous fisheries zone except that—

19 (1) such extension of jurisdiction shall not extend
20 to the territorial waters or fishery zone of another
21 country; and

22 (2) sixty days after written notice to the President
23 of the Senate and the Speaker of the House of Repre-
sentatives of intent to do so, the Secretary of the Treas-
ury may authorize a vessel other than a vessel of the

1 United States to engage in fishing for such fish in areas
2 to which the United States has extended jurisdiction
3 pursuant to this section upon determining, after con-
4 sultation with the Secretary of State and the Secretary
5 of Commerce, that such fishing would not result in de-
6 pletion of such fish beyond the level necessary for proper
7 conservation purposes.

【Sec. 3(1)】

8 (b) As used in this Act the term “anadromous fish”
9 means all living resources originating in inland waters of the
10 United States and migrating to and from waters outside the
11 territorial waters and contiguous fisheries zone of the United
12 States.

13 PROMOTION OF PURPOSES OF ACT BY TREATIES AND
14 AGREEMENTS **【SEC. 202】**

【Sec. 202(a)】

15 SEC. 5. The Secretary of State shall—

16 (1) initiate negotiations as soon as possible with all
17 foreign governments which are engaged in, or which
18 have persons or companies engaged in commercial fish-
19 ing operations for fish protected by this Act, for the pur-
20 pose of entering into treaties or agreements with such
21 countries to carry out the policies and provisions of this
22 Act;

【Sec. 202(a)】

1 (2) review and, if necessary, initiate the amend-
2 ment of treaties, conventions, and agreements to which
3 the United States is a party in order to make such
4 treaties, conventions, and agreements consistent with the
5 policies and provisions of this Act;

【Sec. 202(d)】

6 (3) seek treaties or agreements with appropriate
7 contiguous foreign countries on the boundaries between
8 the waters adjacent to the United States and waters
9 adjacent to such foreign countries for the purpose of
10 rational utilization and conservation of the resources
11 covered by this Act and otherwise administering this
12 Act; and

13 (4) seek treaties or agreements with appropriate
14 foreign countries to provide for the rational use and con-
15 servation of—

【Secs. 201(a) ; 202(a)】

16 (a) coastal fish common both to waters over
17 which the United States has jurisdiction and to
18 waters over which such foreign countries have jur-
19 isdiction through measures which will make possible
20 development of the maximum yields from such fish;

[Sec. 202 (a) (4) (B)]

(b) anadromous fish spending some part of their life cycles in waters over which such foreign countries have jurisdiction through measures which restrict high seas harvesting and make available to the fishermen of such foreign countries an equitable share of such anadromous fish which are found in their territorial waters;

【Sec. 202(a)(4)(B)】

(c) fish originating in the high seas through strengthening existing or, where needed, creating new international conservation organizations; and

[Sec. 201 (f)]

(d) coastal fish in waters over which other countries have jurisdiction through measures which make possible the harvesting by United States fishermen of an appropriate share of such fish not being harvested by the coastal country, under users' fees, licenses, and regulations which are nondiscriminatory and nonpunitive and take United States traditional fishing into account.

RESEARCH

[Sec. 304 (e)]

SEC. 6. The Secretary of Commerce is authorized to promote the conservation of fish originating in the United States territorial sea and contiguous fisheries zone and anadromous

1 fish by carrying out such research, or providing financial as-
2 sistance to public or private agencies, institutions, or persons
3 to carry out research, as may be necessary.

4 **REGULATIONS**

【Secs. 305; 311; 406】

5 SEC. 7. There are authorized to be promulgated such reg-
6 ulations as may be necessary to carry out the provisions of
7 this Act, but the sums appropriated for any fiscal year shall
8 not exceed \$1,000,000.

9 **EFFECTIVE DATE**

【Sec. 104】

10 SEC. 8. The provisions of this Act shall be come effec-
11 tive on the date of enactment of this Act, except that the
12 provisions of sections 3 and 4 shall become effective after
13 ninety days following such date of enactment.

14 **TERMINATION DATE**

【Sec. 401】

15 SEC. 9. This Act shall cease to be in effect on the date
16 the Law of the Sea Treaty or Treaties now being developed
17 regarding fisheries jurisdiction and conservation shall enter
18 into force.

【Secs. 201; 202】

19 SEC. 10. Nothing contained in this Act shall be con-
20 strued to abrogate any treaty or convention to which the
21 United States is a party on the date of the enactment of
22 this Act.

TABLE 1.—COMPARISON OF SECTIONS OF FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976 (PUBLIC LAW 94-265), S. 961 AND H.R. 200 BY SUBJECT

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Sec. 2	Findings, purposes, and policy ..	Findings, purposes, and policy ..	Congressional findings, policy and purposes.
Sec. 3	Definitions	Definitions	Definitions.

¹ Passed by the Senate as H.R. 200 as amended.

TABLE 2.—COMPARISON OF SECTIONS OF FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976 (PUBLIC LAW 94-265), S. 961, AND H.R. 200, BY SECTION—Continued

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Sec. 103.....	Highly migratory species.....	International fishery agreements.	Adjustment of boundary.
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Sec. 106.....			Effective date.
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Sec. 202.....	International fisheries agreements.	Regional fishery management councils.	Treatment of certain existing international fisheries agreements.
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¹ Passed the Senate as H.R. 200, as amended.

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